



भारत का राजपत्र

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सं. 47] नई दिल्ली, नवम्बर 19—नवम्बर 25, 2006, शनिवार/कार्तिक 28—अग्रहायण 4, 1928

No. 47] NEW DELHI, NOVEMBER 19—NOVEMBER 25, 2006, SATURDAY/KARTIKA ??—AGRAHAYA 4, 1928

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पृथक संकलन के रूप में रखा जा सके
Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं

Statutory Orders and Notifications Issued by the Ministries of the Government of India
(Other than the Ministry of Defence)

गृह मंत्रालय

नई दिल्ली, 14 नवम्बर, 2006

का.आ. 4459.—केन्द्रीय सरकार, सरकारी स्थान [अप्राधिकृत अधिभोगियों को बेदखली अधिनियम, 1971 (1971 का 40)] की धारा 3 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए श्री मंगल सिंह, सहायक निदेशक, आसूचना व्यूरो, नई दिल्ली को जो सरकार के राजपत्रित अधिकारी हैं, श्री एम. आर. के. एस. राव के स्थान पर उक्त अधिनियम के प्रयोजनों के लिए सम्पदा अधिकारी नियुक्त करती है और निदेश देती हैं कि उक्त अधिकारी निदेशक, आसूचना व्यूरो, नई दिल्ली के नियंत्रणाधीन सभी सरकारी वास सुविधा के सम्बन्ध में, उक्त अधिनियम के द्वारा या उसके अधीन सम्पदा अधिकारी को प्रदत्त शक्तियों का प्रयोग करेगा और अधिरोपित कर्तव्यों का पालन करेगा।

[सं. 6/सी-2/2006(10)-पी. एफ. II]
निर्मला देव, डेस्क अधिकारी, पी. एफ. II

MINISTRY OF HOME AFFAIRS

New Delhi, the 14th November, 2006

S.O. 4459.—In exercise of the powers conferred by Section 3 of the Public Premises [Eviction of unauthorised occupations Act, 1971 ('0 of 1971)] the Central Govt. hereby appoints Shri Mangal Singh, Assistant Director, Intelligence Bureau, New Delhi, a Gazetted Officer of the Government to be the Estate Officer vice Shri M. R. K. S. Rao, Assistant Director, for the purpose of the said Act and directs that the Estate Officer shall exercise the powers conferred and perform the duties imposed on the Estate Officer by or under the said Act in respect of all Government accommodation under the control of the Director, Intelligence Bureau at New Delhi.

[No. 6/C-II/2006(10)-PF-II]

NIRMALA DEV, Desk Officer, PF-II

वित्त मंत्रालय

(राजस्व विभाग)

कार्यालय आयुक्त, केन्द्रीय उत्पाद एवं सीमा शुल्क

भोपाल, 31 अक्टूबर, 2006

सं. 08/2006

का.आ. 4460.—श्री आर. सी. जैन, अधीक्षक समूह 'ख' केन्द्रीय उत्पाद एवं सीमा शुल्क आयुक्तालय भोपाल, निवर्तन की आयु प्राप्त करने पर, दिनांक 31-10-2006 को अपराह्न में शासकीय सेवा से निवृत्त हुये।

[फा. सं. II (25)01/2000-स्था.-I]

बी. डी. बोरकर, अपर आयुक्त (का./स.)

MINISTRY OF FINANCE

(Department of Revenue)

OFFICE OF THE COMMISSIONER, CUSTOMS AND CENTRAL EXCISE

Bhopal, the 31st October, 2006

No. 08/2006

S.O. 4460.—Shri R. C. Jain, Superintendent, Group 'B', Central Excise and Customs, Bhopal Commissionerate having attained the age of superannuation, retired from Government Service in the afternoon of 31st October, 2006.

[C. No. II (25)01/2000/Et-I]

B. D. BORKAR, Addl. Commissioner (P&V)

भोपाल, 31 अक्टूबर, 2006

सं. 09/2006

का.आ. 4461.—श्रीमती इसाबेल सेविले, वरिष्ठ कर सहायक समूह 'ग', केन्द्रीय उत्पाद एवं सीमा शुल्क, आयुक्तालय भोपाल, एच्छिक सेवानिवृत्ति पर, दिनांक 06-09-2006 को पूर्वाह्न में शासकीय सेवा से निवृत्त हुई।

[फा. सं. II (25)01/2000-स्था.-I]

बी. डी. बोरकर, अपर आयुक्त (का./स.)

Bhopal, the 31st October, 2006

No. 09/2006

S.O. 4461.—Smt. Isabel Saville, Sr. Tax Assistant, Group 'C', Central Excise and Customs, Bhopal Commissionerate has retired voluntarily from Government Service in the forenoon of 6th September, 2006.

[C. No. II (25)01/2000/Et-I]

B. D. BORKAR, Addl. Commissioner (P&V)

भोपाल, 6 नवम्बर, 2006

सं. 10/2006

का.आ. 4462.—श्री बी. वी. कुलथे, सहायक आयुक्त समूह 'क', केन्द्रीय उत्पाद एवं सीमा शुल्क, आयुक्तालय भोपाल, निवर्तन की आयु प्राप्त करने पर, दिनांक 31-10-2006 को अपराह्न में शासकीय सेवा से निवृत्त हुये।

[फा. सं. II (25)01/2000-स्था.-I]

बी. डी. बोरकर, अपर आयुक्त (का./स.)

Bhopal, the 6th November, 2006

No. 10/2006

S.O. 4462.—Shri B. V. Kulthe, Assistant Commissioner Group 'A', Central Excise and Customs, Bhopal Commissionerate having attained the age of superannuation, retired from Government Service in the afternoon of 31st October, 2006.

[C. No. II (25)01/2000/Et-I]

B. D. BORKAR, Addl. Commissioner (P&V)

(कार्यालय : आयुक्त, केन्द्रीय उत्पाद शुल्क, कोलकाता-III)
कोलकाता, 14 नवम्बर, 2006

सं. 2/2006-सीमा-शुल्क (एनटी)

का.आ. 4463.—भारत सरकार, वित्त मंत्रालय, राजस्व विभाग, नई दिल्ली की अधिसूचना सं. 33/94-सी.शु. (एनटी) दिनांक 1-7-94 तथा एम एफ (डी आर) परिपत्र सं. 31/2003-सी.शु, दिनांक 7-4-2003 के साथ पठनीय सीमा शुल्क अधिनियम, 1962 की धारा 9 में प्रदत्त शक्तियों का प्रयोग करते हुए भारत सरकार, संचार एवं सूचना तकनीकी मंत्रालय, सोफ्टवेयर टेक्नालॉजी पार्क, कोलकाता के निदेशक एस.डी.एफ. भवन (चतुर्थ तल) साल्ट लेक, ब्लाक-जी.पी., सेक्टर-V, विधान नगर, कोलकाता-700091 को उनके पत्र सं. एस.टी.पी.के. : डी.आई.आर. : 2006-07 : 890, दिनांक 9-10-2006 द्वारा यथास्वीकृत पश्चिम बंगाल राज्य के मैसर्स आई बी एम दक्ष बिजनेस प्रोसेस सर्विस प्राइवेट लिं. के सीमांकित परिसर, दूसरा तल, 8 मेजर आरटिरियल रोड, ब्लाक-ए, एफ., न्यू टाउन, राजरहाट, 24-परगना (उत्तर), कोलकाता-700156 को मैं, एतद्वारा सीमित प्रयोजन हेतु 100% नियांतोन्सुखी उपक्रम के रूप में एक भण्डारण स्टेशन घोषित करता हूँ।

[सी.सं. V(19)01/केउश/तक/कोल-III/2006]

विनीत ओहरी, आयुक्त

(OFFICE OF THE COMMISSIONER OF CENTRAL EXCISE, KOLKATA-III)

Kolkata, the 14th November, 2006

No. 2/2006-CUSTOMS (NT)

S.O. 4463.—In exercise of the powers under Section 9 of the Customs Act, 1962 (52 of 1962) read with Notification No. 33/94-Customs (NT) dated 01-07-1994 of the Government of India, Ministry of Finance, Department of Revenue, New Delhi, and M. F. (D. R.) Circular No. 31/2003-Customs, dated 07-04-2003, I, hereby declare the demarcated premise of M/s. IBM Daksh Business Process Service Pvt. Ltd. at 2nd Floor, 8, Major Arterial Road, Block-AF, New Town, Rajarhat, 24-Parganas (North) Kolkata-700156 in the State of West Bengal (the layout plan duly endorsed by the Director, Software Technology Park, Kolkata) to be a warehousing station under the Customs Act, 1962 (52 of 1962) for the limited purpose of setting up of 100% Export oriented undertaking as approved by the Director, Software Technology Park, Kolkata, Ministry of Communication and Information Technology, Government of India, SDF Building (4th floor), Salt Lake, Block-GP, Sector-V, Bidhannagar, Kolkata-700091 vide letter No. STPK: DIR : 479 : 2006-07 : 890 dated : 09-10-2006.

[C. No. V(19)01/CE/Tech/Kol-III/2006]

VINEET OHRI, Commissioner

नागर विमानन मंत्रालय

नई दिल्ली, 14 नवम्बर, 2006

का.आ. 4464.—सरकारी स्थान (अप्राधिकृत अधिभोगियों की बेदखली) अधिनियम, 1971 (1971 का 40) की धारा 3 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, तथा नागर विमानन मंत्रालय के सांविधिक आदेश सं. 2702 दिनांक 28 सितम्बर, 2001 में भारत सरकार की अधिसूचना का अधिक्रमण करते हुए, इस अधिक्रमण से पहले किए गए अथवा किए जाने के लिए विलोपनीय कार्यों के संबंध में छोड़कर, केन्द्रीय सरकार एतद्वारा नीचे दी गई सूची के कॉलम (1) में उल्लिखित अधिकारियों को, सरकार के राजपत्रित अधिकारियों के इंक के समकक्ष अधिकारी होने के कारण, उक्त अधिनियम के प्रयोजनों के लिए सम्पदा अधिकारी के रूप में नियुक्त करती है, जो उक्त सूची के कॉलम (3) में विनिर्दिष्ट सरकारी स्थानों के संबंध में कालम (2) में वर्णित अपने-अपने अधिकारी क्षेत्र की सीमाओं के भीतर, उक्त अधिनियम द्वारा अथवा इसके तहत प्रदत्त शक्तियों का उपयोग करेंगे और सरकारी अधिकारियों को सौंपी गई ड्यूटीयों को निष्पादित करेंगे।

सूची

अधिकारी का पदनाम	सम्पदा अधिकारी के अधिकार-क्षेत्र की राज्यक्षेत्रीय सीमाएं	सार्वजनिक स्थानों की श्रेणियाँ
(1)	(2)	(3)
I. कंपनी सचिव, भारतीय होटल निगम लिमिटेड, परिवहन सौध भवन, एअर फ्लैट्स	महाराष्ट्र राज्य	वे सभी स्थान जहाँ भारतीय होटल निगम लिमिटेड मालिक पट्टा धारक

(1)	(2)	(3)
कॉम्प्लैक्स, ओल्ड एयरपोर्ट, मुम्बई उप महानिदेशक- लेखा भारतीय होटल निगम लिमिटेड, परिवहन सौध भवन, एआर ईंडिया कॉम्प्लैक्स, ओल्ड एयरपोर्ट, मुम्बई		अथवा लाइसेंसधारक है और भारतीय होटल निगम लिमिटेड के लिए अथवा इसकी ओर से अधिग्रहीत सभी स्थान।
II. उपाध्यक्ष-बिक्री एवं विपणन/प्रशासन, सेन्टर होटल, दिल्ली एयरपोर्ट तथा शैफेयर फ्लाइट केटरिंग, नई दिल्ली कार्यकारी प्रबन्धक- कार्मिक दिल्ली एयरपोर्ट तथा शैफेयर फ्लाइट केटरिंग, नई दिल्ली	दिल्ली संघ शासित प्रदेश	वे सभी स्थान जहां भारतीय होटल निगम लिमिटेड मालिक पट्टा धारक अथवा लाइसेंसधारक है और भारतीय होटल निगम लिमिटेड के लिए अथवा इसकी ओर से अधिग्रहीत सभी स्थान।
III. महाप्रबन्धक-प्रचालन, सेन्टर लेक व्यू होटल, श्रीनगर उपमहाप्रबन्धक, सेन्टर लेक व्यू होटल, श्रीनगर	जम्मू कश्मीर राज्य	वे सभी स्थान जहां भारतीय होटल निगम लिमिटेड मालिक पट्टा धारक अथवा लाइसेंसधारक है और भारतीय होटल निगम लिमिटेड, के लिए अथवा इसकी ओर से अधिग्रहीत सभी स्थान।

[फा. सं. एवी-8050/105/2001-एआई]

मुश्तिला अनन्त, अबर सचिव

MINISTRY OF CIVIL AVIATION

New Delhi, the 14th November, 2006

S.O. 4464.—In exercise of the powers conferred by Section 3 of the Public Premises (Eviction of Unauthorized Occupants) Act, 1971 (40 of 1971) and in supersession of the Notification of the Government of India in the Ministry of Civil Aviation S. O. 2702, dated the 28th September, 2001, except as respects things done or omitted to be done before such supersession, the Central Government hereby appoints the officers mentioned in Column (1) of the Table below, being officers equivalent to the rank of the Gazetted Officers of the Government, to be estate officers for the purposes of the said Act, who shall exercise the powers conferred and perform the duties imposed on the estate officers by or under the said Act, within the limits of their respective jurisdiction mentioned in Column (2) in respect of the public premises specified in Column (3) of the said Table.

TABLE

Designation of the officer (1)	Territorial limits of jurisdiction of the estate officer (2)	Categories of the public premises (3)
I. Company Secretary, Hotel Corporation of Indian Limited, Transport Annex Building, Air India Complex, Old Airport, Mumbai. Deputy General Manager-Accounts, Hotel Corporation of Indian Limited, Transport Annex Building, Air India Complex, Old Airport, Mumbai.	State of Maharashtra	All premises of which the Hotel Corporation of India Limited is the owner, lessee, tenant or licensee and all premises requisitioned for and on behalf of the Hotel Corporation of India Limited.
II. Vice-President (Sales, Marketing and Administration), Centaur Hotel, Delhi Airport and Chefair Flight Catering, New Delhi Executive Manager-Personnel, Centaur Hotel, Delhi Airport and Chefair Flight Catering, New Delhi.	Union Territory of Delhi	All premises of which the Hotel Corporation of India Limited is the owner, lessee, tenant or licensee and all premises requisitioned for and on behalf of the Hotel Corporation of India Limited.

(1)	(2)	(3)
III. General Manager-Operations, Centaur Lake View Hotel, Srinagar.	State of Jammu and Kashmir	All premises of which the Hotel Corporation of India Limited is the owner, lessee, tenant or licensee and all premises requisitioned for and on behalf of the Hotel Corporation of India Limited.
Deputy General Manager-Administration, Centaur Lake View Hotel, Srinagar		[F. No. AV. 18050/105/2001-AI] SUSHILA ANANTH, Under Secy.

उपभोक्ता मामले, खाद्य और सार्वजनिक वितरण मंत्रालय

(उपभोक्ता मामले विवरण)

(भारतीय मानक व्यूरो)

नई दिल्ली, 15 नवम्बर, 2006

का.आ. 4465.—भारतीय मानक व्यूरो (प्रमाणन) विनियम (5) के उपविनियम के अनुसरण में भारतीय मानक व्यूरो एतद्वारा अधिसूचित करता है कि निम्न विवरण वाले लाइसेंसों को उनके आगे दर्शायी गयी तारीख से रद्द/स्थगित कर दिया गया है :—

अनुसूची

क्रम संख्या	लाइसेंस संख्या सीएम/एल	लाइसेंसधारी का नाम व पता	लाइसेंस के अन्तर्गत वस्तु/प्रक्रम सम्बद्ध भारतीय मानक का शीर्षक	रद्द/स्थगित करने की तिथि
(1)	(2)	(3)	(4)	(5)
<u>2005-2006</u>				
1.	9214266	स्वदेशी इण्टरप्राइजेज 111/108 ए, पोखरपुर, कानपुर-208 010	8960 मिथाइल पैराथियन डिस्ट्रिंग.पावडर	25-08-2005
<u>2006-2007</u>				
1.	9296601	सम्पन्न ओवरसीज प्रा. लि., जी-51 जैनपुर इण्डस्ट्रियल एरिया, कानपुर देहात	14543 पैकबन्द पेय जल	04-07-2006

[सं. सीएमडी-1/13:13]

एस. के. चौधरी, उप महानिदेशक (मुहर)

MINISTRY OF CONSUMER AFFAIRS, FOOD AND PUBLIC DISTRIBUTION

(Department of Consumer Affairs)

(BUREAU OF INDIAN STANDARDS)

New Delhi, the 15th November, 2006

S.O. 4465.—In pursuance of sub-regulation (6) of the regulation 5 of the Bureau of Indian Standards (Certification) Regulations 1988, of the Bureau of Indian Standards, hereby notifies that the licences particulars of which are given below have been cancelled/suspended with effect from the date indicated against each :

SCHEDULE

Sl. No.	Lincences No. CML	Name and Address of the Licensee	Article/Process with relevant Indian Standards covered by the licence cancelled/suspension	Date of cancellation/ Suspension
(1)	(2)	(3)	(4)	(5)
<u>2005-2006</u>				
1.	9214266	Swadeshi Enterprises 111/108 A, Pokharpur, Kanpur—208010	8960 Methyl Parathion Dusting Powders	25-08-2005
<u>2006-2007</u>				
1.	9296601	Sampann Overseas Pvt. Ltd., G-51, Jainpur Industrial Area, Kanpur Dehat	14543 Packaged Drinking Water	04-07-2006

[No. CMD-1/13:13]

S. K. CHAUDHURI, Dy. Director General (Marks)

नई दिल्ली, 10 नवम्बर, 2006

का.आ. 4466.—भारतीय मानक व्यूरो नियम, 1987 के नियम 7 के उपनियम (1) के खंड (ख) के अनुसरण में भारतीय मानक व्यूरो एतद्वारा अधिसूचित करता है कि नीचे अनुसूची में दिये गये मानक(को) में संशोधन किया गया/किये गये हैं :

अनुसूची

क्रम संख्या	संशोधित भारतीय मानक की संख्या और वर्ष	संशोधन की संख्या और तिथि	संशोधन लागू होने की तिथि
(1)	(2)	(3)	(4)
1.	1328:1996	संख्या 5 सितम्बर, 2006	27 अक्टूबर 2006

इस संशोधन की प्रति भारतीय मानक व्यूरो, मानक भवन, 9, बहादुर शाह जफर मार्ग नई दिल्ली-110002, क्षेत्रीय कार्यालयों : नई दिल्ली, कोलकाता, चंडीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों : अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पुणे तथा तिरुवनन्तपुरम में बिक्री हेतु उपलब्ध हैं।

[सं. : सीईडी/राजपत्र]

ए. के. सैनी, वैज्ञानिक 'एफ' एवं प्रमुख (सिविल इंजीनियर)

New Delhi, the 10th November, 2006

S.O. 4466.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that amendment to the Indian Standard, particulars of which are given in the Schedule hereto annexed have been issued :

SCHEDULE

Sl. No.	No. and year of the Indian Standards	No. and year of the amendment	Date from which the amendment shall have effect
(1)	(2)	(3)	(4)
1.	1328:1996	No. 5 September, 2006	27 October, 2006

Copy of the Standard is available for sale with the Bureau of Indian Standards, Manak Bhavan, 9, Bahadur Shah Zafar Marg, New Delhi-110002 and Regional Offices : New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices : Ahmedabad, Bangalore, Bhopal, Bhubaneshwar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, Thiruvananthapuram.

[No. CED/Gazette]

A. K. SAINI, Scientist 'F' & Head (Civil Engg.)

नई दिल्ली, 10 नवम्बर, 2006

का.आ. 4467.—भारतीय मानक ब्यूरो नियम, 1987 के नियम 7 के उपनियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिन भारतीय मानकों के विवरण नीचे अनुसूची में दिये गये हैं वे स्थापित हो गए हैं :—

अनुसूची

क्रम संख्या	स्थापित भारतीय मानक(कों) की संख्या वर्ष और शीर्षक	नये भारतीय मानक द्वारा अतिक्रमित भारतीय मानक अथवा मानकों, यदि कोइं हो, की संख्या और वर्ष	स्थापित तिथि
(1)	(2)	(3)	(4)
1.	आई एस 15682:2006 अग्नि शमन वाहन और उपस्कर-प्रचालक नियंत्रण और अन्य प्रदर्शन के प्रतीक		30 सितम्बर, 2006

इस भारतीय मानक की प्रतियाँ भारतीय मानक ब्यूरो, मानक भवन, 9 बहादुर शाह जफर मार्ग, नई दिल्ली-110002, क्षेत्रीय कार्यालयों नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों : अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पूणे तथा तिरुवनन्तपुरम में बिक्री हेतु उपलब्ध हैं।

[सं. सीईडी/राजपत्र]

ए. के. सैनी, वैज्ञानिक 'एफ' एवं प्रमुख (सिविल इंजीनियर)

New Delhi, the 10th November, 2006

S.O. 4467.—In pursuance of clause (b) of sub-rule (1) of Rules 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that the Indian Standards, particulars of which are given in the Schedule hereto annexed have been established on the date indicated against each :

SCHEDULE

Sl. No.	No. and year of the Indian Standards Established	No. and Year of the Indian Standards, if any, Superseded by the New Indian Standard	Date of Established
(1)	(2)	(3)	(4)
1.	IS 15682 : 2006 Fire Fighting Vehicles and Equipment— Symbols for operator controls and other display.		30 September, 2006

Copy of this Standard is available for sale with the Bureau of Indian Standards, Manak Bhavan, 9 Bahadur Shah Zafar Marg, New Delhi-110002 and Regional Offices : New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices : Ahmedabad, Bangalore, Bhopal, Bhubaneshwar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, Thiruvananthapuram.

[No. CED/Gazette]

A. K. SAINI, Sc. 'F' & Head (Civil Engg.)

नई दिल्ली, 14 नवम्बर, 2006

का.आ. 4468.—भारतीय मानक ब्यूरो (प्रमाणन) विनियम, 1988, के विनियम 4 के उप-विनियम (5) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिनके विवरण नीचे अनुसूची में दिये गये हैं को लाइसेंस प्रदान किए गए हैं :—

अनुसूची

क्रम संख्या	लाइसेंस संख्या	वैधता तिथि	पार्टी का नाम एवं पता कारखाना	उत्पादन	आई एस सं./भाग/खण्ड वर्ष
1	2	3	4	5	6
1.	7640374	1-8-2007	कावेरी इन्टरप्राइजेस पाटिल फार्म, सर्वे संख्या-92/2, पेलस्पा फाटा, पनवेल, जिला-रायगढ़	पैकेजबंद पेयजल	भागा : 14543 : 2004

1	2	3	4	5	6
2.	7640980	2-8-2007	तारा बायोटेक प्राइवेट लिमिटेड प्लॉट संख्या-122, 3रा माला, रोड संख्या-15, एमआईडीसी, अंधेरी (पूर्व), मुंबई-400093	पैकेजबंद पेयजल	भासा : 14543 : 2004
3.	7643481	13-8-2007	श्रेया इण्डस्ट्रीज व्ही-75, एमआईडीसी एरिया, जलगांव-425003	बिल्डिंग लाईम्स	भासा : 712 : 1984
4.	7648188	30-8-2007	टफरोप्स प्राइवेट लिमिटेड सर्वे संख्या-79/1, आमली बिलोज, सिल्वासा-396230, दादरा एवं नगर हवेली	पॉलीप्रॉपेलिन रोप्स	भासा 5175 : 1992

[सं. सीएमडी-1/13:11]

एस. के. चौधरी, उप-महानिदेशक (मुहर)

New Delhi, the 14th November, 2006

S.O. 4468.—In pursuance of sub-regulation (6) of regulation 5 of the Bureau of Indian Standards (Certification) Regulations, 1988, the Bureau of Indian Standards, hereby notifies the grant of licences particulars of which are given below in the following schedule :

SCHEDULE

Sl. No.	Licence No.	Validity Date	Name and Address (Factory) of the Party	Product	IS No./Part/Sec Year
1.	7640374	1-8-2007	Kaveri Enterprises Patil Farm, Survey No. 92/2, Palaspa Phata Panve, Dist. Raigad	Packaged Drinking Water (Other than Packaged Natural Mineral Water)	14543:2004
2.	7640980	2-8-2007	Tara Biotech Pvt. Ltd. Plot No. 122, 3rd floor, Road No. 15, MIDC, Andheri (E), Mumbai-400093	Packaged Drinking Water (Other than Packaged Natural Mineral Water)	14543:2004
3.	7643481	13-8-2007	Shreyya Industries V-75, MIDC Area, Jalgaon-425003	Building Limes	712:1984
4.	7648188	30-8-2007	Tufropes Pvt. Limited Survey No. 79/1, Village Amla, Silvassa-396230 Dadra & Nagar Haveli	Polypropylene Ropes (3 strand hawser laid and 8 strand plaited)	5175:1992

[No. CMD-1/13:11]

S. K. CHAUDHURI, Dy. Director General (Marks)

नई दिल्ली, 16 नवम्बर, 2006

का.आ. 4469.—भारतीय मानक व्यापो (प्रमाणन) विभिन्नता (5) के उपचिनिमय का अनुसरण में भारतीय मानक व्यूरो एवं द्वारा अधिसूचित करता है कि जिन लाइसेंसों के विवरण नीचे अनुसूची में दिये गये हैं, वे स्वीकृत कर दिये गए हैं :—

अनुसूची

2005—2006

क्रम संख्या	लाइसेंस संख्या सीएम/एल	स्वीकृत करने की तिथि वर्ष/माह	लाइसेंसधारी का नाम व पता	भारतीय मानक का शीर्षक	भा. मा. संख्या	भाग/अनु/वर्ष
1.	9471993	3-6-2005	शिवांग कोल्ड स्टोरेज, आगरा रोड, लासनी, हाथरस, महाराया नगर (उ.प्र.)	प्रैक्टिक बन्ड पेय जल	14543	
2.	9474801	4-7-2005	स्टर्लिंग एंग्रो इण्डस्ट्रीज, ग्राम भितौना, सोरों रोड, कासगंज, एटा (उ.प्र.)	स्विम्ड मिल्क पावडर स्टैन्डर्ड ग्रेड	13334 (भाग 1)	
3.	9478607	4-8-2005	स्टर्लिंग एंग्रो इण्डस्ट्रीज, ग्राम भितौना, सोरों रोड, कासगंज, एटा (उ.प्र.)	मिल्क पावडर	1165	
4.	9480994	22-8-2005	स्टर्लिंग एंग्रो इण्डस्ट्रीज, ग्राम भितौना, सोरों रोड, कासगंज, एटा (उ.प्र.)	स्विम्ड मिल्क पावडर एक्स्ट्रा ग्रेड	13334 (भाग 2)	
5.	9486808	29-9-2005	मिल्ल कॉमिकल इण्डस्ट्रीज, इ-47, फाउन्डी नगर, डाकखाना-ओंग, फतेहपुर आगरा-282 006	डिस्हन्केक्टेण्ट फल्यूड्स फिल्मलिक टाइप	1061	
6.	9496104	25-10-2005	प्रभात कॉमिकल इण्डस्ट्रीज, ई-21, फाउन्डी नगर, आगरा-282 006	हाइड्रोक्लोरिक एसिड	265	
7.	9490694	24-10-2005	श्रीवत्स इन्टरनेशनल, ग्राम गुधरौली, डाकखाना-ओंग, फतेहपुर	कॉटन फ्रिल्स	177	
8.	9450593	24-10-2005	श्रीवत्स इन्टरनेशनल, ग्राम गुधरौली, डाकखाना-ओंग, फतेहपुर	कॉटन सेल्यूलर शर्टिंग	1144	
9.	9492092	16-11-2005	श्रीवत्स इन्टरनेशनल, ग्राम गुधरौली, डाकखाना-ओंग, फतेहपुर	कॉटन फ्रिल्स	177	
10.	9492193	16-11-2005	श्रीवत्स इन्टरनेशनल, ग्राम गुधरौली, डाकखाना-ओंग, फतेहपुर	फलिएस्टर ब्लेण्ड सूटिंग्स	11248	
11.	9490997	8-11-2005	प्रभात कॉमिकल इण्डस्ट्रीज, ई-21, फाउन्डी नगर, आगरा-282 006	सल्फ्यूरिक एसिड	266	

क्रम संख्या	लाइसेंस संख्या सीएम/एल	स्वीकृत करने की तिथि वर्ष/माह	लाइसेंसधारी का नाम व पता	भारतीय मानक का शीर्षक	भा मा संख्या	भाग/अनु/बं
12.	9493397	30-11-2005	स्वीट प्लास्टिक पाइप्स, आलमपुर हौज, आगरा रोड, इटावा-206 001	अनप्लास्टिसीज्ड पीचीसी पाइप्स पेय जल आपूर्ति हेतु	4985	
13.	9496003	9-12-2005	कुमार बेवरेजेज, कुमार पैलेस, रामबाग, आगरा-208 006	पैकबन्द पेय जल	14543	
14.	9497611	9-12-2005	टेस्टी डेयरी स्पेशियलटीज, सी-2 से सी-5, उद्योग कुंज, पनकी इण्डस्ट्रियल एरिया, साइट-5, कानपुर-208 022	मिल्क पावडर	1165	
15.	9500166	20-12-2005	शाइनिंग इंजीनियरिंग वर्क्स, डी-19, फाउन्डी नगर, हाथरस रोड, आगरा-282 006	कास्ट आयरन/डक्टाइल आयरन, ड्रेनेज पाइप एण्ड पाइप फिटिंग्स फार ओवरग्राउण्ड नान-प्रेशर पाइपलाइन साकेट एण्ड स्पिगाट	1729	
16.	9500469	19-12-2005	आर जी मैकेनिकल, डी-40, पनकी इण्डस्ट्रियल इस्टेट, साइट-2, कानपुर-208 022	पीचीसी इन्स्लूटेड केबिल्स फार वर्किंग वोल्टेज अप टू एण्ड इन्क्लूडिंग 1100 वोल्ट	694	
17.	9503576	23-12-2005	गंगा डेयरी प्रतियोगिता, रामधाट रोड, अतरौली, अलीगढ़ (उ. प्र.)	स्किड मिल्क पावडर एक्स्ट्रा ग्रेड	13334 (भाग 2)	
18.	9501976	23-12-2005	बेंगाल केमिकल्स, 84/23, फैक्टरी एरिया, फिजलगांज, कानपुर-208 012	नेफथालीन	539	
19.	9502069	27-12-2005	टेस्टी डेयरी स्पेशियलटीज, सी-2 से सी-5, उद्योग कुंज, पनकी इण्डस्ट्रियल एरिया, साइट-5, कानपुर-208 022	स्किड मिल्क पावडर- एक्स्ट्रा ग्रेड	13334 (भाग 2)	
20.	9497712	23-12-2005	बसन्त एपीकल्चर इण्डस्ट्रीज, 11बी/100 ए.ए., फाउन्डी नगर, हाथरस रोड, आगरा-282 006	पावर थ्रेशर्स	9020	
21.	9498411	23-12-2005	टेक्सटाइल इन्टरनेशनल, जी-36 एवं सी-10, पनकी इण्डस्ट्रियल एरिया, साइट-1, कानपुर-208 022 (उ. प्र.)	काटन ड्रिल्स	177	
22.	9498310	23-12-2005	टेक्सटाइल इन्टरनेशनल, जी-36 एवं सी-10, पनकी इण्डस्ट्रियल एरिया, साइट-1, कानपुर-208 022 (उ. प्र.)	काटन सेलुलर शर्टिंग	1144	

क्रम संख्या	लाइसेंस संख्या सीएम/एल	स्वीकृत करने की तिथि वर्ष/माह	लाइसेंसधारी का नाम व पता	भारतीय मानक का शीर्षक	भा. मा. संख्या	भाग/अनु/वर्ष
23.	9498108	23-12-2005	टेक्सटाइल इन्टरनेशनल, जी-36 एवं सी-10, पनकी इण्डस्ट्रियल एरिया, साइट-1, कानपुर 208 022 (उ.प्र.)	पालिएस्टर ब्लेण्ड शर्टिंग फार यूनीफार्म	11815	
24.	9498209	23-12-2005	टेक्सटाइल इन्टरनेशनल, जी-36 एवं सी-10, पनकी इण्डस्ट्रियल एरिया, साइट-1, कानपुर-208 022 (उ.प्र.)	पालिएस्टर ब्लेड सूटिंग फार यूनीफार्म	11248	
25.	9500671	29-12-2005	रोल ट्यूबस, बिन्दकी रोड, चौडगरा, फतेहपुर (उ.प्र.)	द्युबलर स्टील पोल्स फार ओवरहेड पावरलाइन्स	2713	
26.	9500570	29-12-2005	क्वालिटी स्टील प्रोडक्ट्स, 133/1, जूही गौशाला, कानपुर-208 014 (उ.प्र.)	द्युबलर स्टील पोल्स फार ओवरहेड पावरलाइन्स	2713	
28.	9503778	18-01-2006	बायोटेक इन्टरनेशनल, 9/122, मोतीबाग, जमुनापार, आगरा-282 006 (उ.प्र.)	नीम बेस्ट ई सी कन्टेनिंग एजांडायरेक्टर	14300	
30.	9505277	30-01-2006	ध्रुव इण्डस्ट्रियल कं. लि, बी-20, यूपीएसआईडीसी इण्डस्ट्रियल एरिया, भरुआ सुमेरपुर, हमीरपुर	पोर्टलैण्ड पांजोलाना सीमेण्ट भाग-1, फलाई ऐश.आधारित	1489 (भाग 1)	
31.	9505176	2-2-2006	रामा डेवरी प्रोडक्ट्स, रामा पुरम, ईटा रोड, अलीगढ़ (उ.प्र.)	स्क्वाड मिल्क पावडर-स्टैन्डार्ड ग्रेड	13334 (भाग 1)	
32.	9505378	2-2-2006	शालीमार पेट्रो प्रोडक्ट्स, नन्दगांव रोड, ग्राम बरहाना, कोसीकलां, मथुरा	बिटुमिन फेल्ट्स जल एवं नवी अवरोधन हेतु	1322	
33.	9506077	2-2-2006	इनसेप्ट बिटुमिन्स प्रोडक्ट्स, 253, गोहारो ग्राम, छत्ता, मथुरा-281 401	पालिमर एवं रबर माडीफाइड बिटुमिन	15462	
34.	9506986	17-2-2006	मानसरोवर फूड प्रोसेस, राम नगर, झांसी रोड, उरई, जालौन-285 001	पैकबन्द पेय जल	14543	
35.	9509790	23-2-2006	बेनारा पम्प्स प्रा. लि., 15 कि.मी. मील का पत्थर, अर्टोनी, आगरा-282 007 (उ.प्र.)	सबमर्सिवल पम्पसेट हेतु मोटरें	9283	

क्रम संख्या	लाइसेंस संख्या सीएम/एल	स्वीकृत करने की तिथि वर्ष/माह	लाइसेंसधारी का नाम व पता	भारतीय मानक का शीर्षक	भा. मा. संख्या	भाग/अनु/वर्ष
36.	9507988	23-2-2006	लाला काशीनाथ ज्वैलर्स, 58/5, बिरहाना रोड, कानपुर-208 001	गोल्ड एवं गोल्ड एलायज, ज्वैलरी/आर्टी फैक्टर्स	1417	
37.	9508081	23-2-2006	लाला काशीनाथ ज्वैलर्स, 58/5, बिरहाना रोड, कानपुर-208 001	सिल्वर एवं सिल्वर एलायज, ज्वैलरी/आर्टी फैक्टर्स	2112	
38.	9509891	3-3-2006	आभूषण ज्वैलर्स, सरेश प्लाजा, एम जी रोड, आगरा-282 002	गोल्ड एवं गोल्ड एलायज, ज्वैलरी/आर्टी फैक्टर्स	1417	
39.	9514379	16-3-2006	अतुल पालीप्लास्ट, नुनहाई इण्डस्ट्रियल एरिया, आगरा (उ.प्र.)	रोटेशनल मोल्डेड पालीथैलीन वाटर स्टोरेज टैंक	12701	
40.	9516282	20-3-2006	आटो टेक इंजीनियर्स, एफ-41, पनकी इण्डस्ट्रियल एरिया, साइट-2, कानपुर-208 022	फुटवियर हेतु प्रोटोकिट व स्टील टी कैप्स	5852	
41.	9513478	21-3-2006	राधे राधे इस्पात, डी-17 से 21, इण्डस्ट्रियल एरिया, मलवां, फतेहपुर (उ.प्र.)	एच एस डी स्टील बार्स एण्ड वायर्स फार कंक्रीट रेन्कोर्समेट	1786	
42.	9516484	21-3-2006	हिन्ज इण्डिया प्रा. लि., मंजूरगढ़ी, अलीगढ़-202 001 (उ.प्र.)	मिल्क पाउडर	1165	
43.	9515381	24-03-2006	स्वास्तिक इण्डस्ट्रीज, डी-83, पनकी इण्डस्ट्रियल एरिया, साइट-4, कानपुर-208 020 (उ.प्र.)	इंसेक्टीसाइडल स्पेस स्ट्रे	1824	
44.	9517486	28-03-2006	के. एन. गोयल, ग्राम रुहेरी, राघनिया रोड, सासनी, हाथरस	कास्ट आयरन/डक्टाइल आयरन डेनेज पाइप्स एण्ड पाइप फिटिंग्स फार ओवरग्राउण्ड नान-प्रेशर प्राइमलाइन साकेट एण्ड स्पिगाट	1729	
45.	9516585	29-3-2006	स्टेट्रेस सेनीटेक प्रा. लि., एस-2, इण्डस्ट्रियल एरिया, साइट-ए, आगरा दिल्ली बाईपास रोड, मथुरा-281 004	कापर एलाय फैन्सी सिंगल टैप्स, कम्बिनेशन टैप असेम्बली एण्ड स्टाप बाल्क्स फार वाटर सर्विसेज	8931	
46.	9517890	31-3-2006	पावर कण्डकर्ट्स, 127/747, डब्ल्यू-1, साकेत नगर, कानपुर-208 014	अल्युमीनियम कण्डकर्ट्स फार ओवरहेड ट्रान्समिशन परपजेज, भाग-2, अल्युमीनियम कण्डकर्ट्स, गल्वनाइज्ड स्टील रेनफोर्स्ड	398 (भाग 2)	

क्रम संख्या	लाइसेंस संख्या	स्वीकृत करने की तिथि वर्ष/माह	लाइसेंसधारी का नाम व पता	मासिक कारबिल के लिए भा. संख्या	कारबिल का शीर्षक	डामरेंज द्वीपी	लाइसेंस नंबर
47.	9515785	31-३-२००६	सोना ज्वैलर्स ५९/१, बिहाना रोड, कानपुर-२०८ ००४ (उ.प्र.)	गोल्ड एवं गोल्ड एलायज, १४१ ज्वैलरी/आर्टीफेस्ट १००८-८०-८०	१४१	१४०१८८९	०१
48.	9515886	31-३-२००६	सोना ज्वैलर्स ३९/१, बिहाना रोड, उ.प्र. कानपुर-२०८ ००४ (उ.प्र.)	सिल्वर एवं सिल्वर एलायज, २११२ ज्वैलरी/आर्टीफेस्ट १००८-८०-८०	१४०१८८९	०१	
1.	9516888	13-४-२००६	ए आर थर्मोपीटर्स प्रा. लि., २०३ लालिमर ग्रूव एवं स्वर सी-५८, योपीएसआईडीसी, माडीफाइ बिटमिन इण्डस्ट्रियल एरिया, मलवा, फतेहपुर	१५४६२			
2.	9517991	16-४-२००६	राघव इण्डस्ट्रीज, बाईपास रोड, पुखराया, कानपुर-८५५१०५	डोमेस्टिक मेस्सर कुकर्स १००८-४०-८०	२३४७	१४०१८८९	०१
3.	9518286	21-४-२००६	अमृत पम्प (यनिट-२) नन्दद्वारा, फिराजाबाद लिंक रोड, आगरा	अनुल्लास्टीसेल्स पीवीसी १००८-४०-८०	१२८१८		
4.	9520475	25-४-२००६	संगम स्ट्रक्चरल्स रु-२९, योपीएसआईडीसी इण्डस्ट्रियल एरिया, नैनी डाकखाना-टी एस एल नैनी, इलाहाबाद-२११ ०१०	कार्बन स्टील कास्ट बिलेट इंगिलैस, बिलेट्स, ब्लूप्स प्रॉड स्लैब्स फार रि-रोलिंग इन ट्रू स्टील फार जनरल स्ट्रक्चरल परफेजे	२८३०	१४०१८८९	०१
5.	9523686	02-०५-२००६	मितल केमिकल्स ई-४७, फाउन्ड्री नगर, हाथरस रोड, आगरा-२८२ ००६	स्ट्रॉन्ड इंजिन मितल केमिकल्स डिस्ट्रिब्यूशन फल्लूड्स	१०७५८	१४०१८८९	०१
6.	9529901	02-०५-२००६	रामा डेवरी श्रीडक्ट्स रामा पुरम, एटा रोड, अलीगढ़ (उ.प्र.)	उत्तरी मिल्के पैवडर रामा पुरम, एटा रोड (उ.प्र.) १५० १०१-८००८०	११६५	१४०१८८९	०१
7.	9530680	28-०६-२००६	धूम इण्डस्ट्रियल कं वी-२०, योपीएसआईडीसी	धूम अर्थिकारी पोर्टलैण्ड सीमेंट ४३ ग्रेड, ५०-५१	४११२	१४०१८८९	०१
8.	9531177	06-०७-२००६	रामा डेवरी प्रोडक्ट्स रामा पुरम, एटा रोड, अलीगढ़ (उ.प्र.)	स्कॉट मिल्क पावडर- एक्स्ट्रा ग्रेड (उ.प्र.) १५० १०१-८००८०	१३३३४ (भाग २)	१४०१८८९	०१
9.	9531581	07-०७-२००६	राज मिल्क प्रोडक्ट्स (उ.प्र.) डी-१९२, श्याम नगर, कानपुर-२०८ ०१३	स्कॉट मिल्क पावडर- स्टॉन्ड ग्रेड	१३३३४ (भाग १)		

क्रम संख्या	लाइसेंस संख्या सीएम/एल	स्वीकृत करने की तिथि वर्ष/माह	लाइसेंसधारी का नाम व पता	भारतीय मानक का शोषक	भा. मा. संख्या	भाग/अनु/वर्ष
10.	9531682	07-07-2006	राज मिल्क प्रोडक्ट्स डी-192, श्याम नगर, कानपुर-208 013	स्किल्ड मिल्क पाउडर- एक्स्ट्रा ग्रेड	13334 (भाग 2)	
11.	9535084	21-07-2006	आधुनिक प्लास्टिक प्रा. लि. एच-3 से एच-5, यूपीएसआईडीसी इण्डस्ट्रियल एरिया, जैनपुर, कानपुर देहात-209 311	अनप्लास्टिसील्ड पीबीसी पाइप्स पेयजल आपूर्ति हेतु	4985	
12.	9538292	28-07-2006	स्वास्तिक पाइप्स लि. ग्राम-कोटवां, कोसीकलां, 97 मील का पथर, एन एच-2, मथुरा	लाइन पाइप	1978	
13.	9536591	26-04-2006	आधुनिक प्लास्टिक प्रा.लि. एच-3 से एच-5, यूपीएसआईडीसी इण्डस्ट्रियल एरिया, जैनपुर, कानपुर देहात-209 311	यूपीबीसी पाइप्स फार स्वायल एण्ड वेस्ट डिस्चार्ज सिस्टम्स इनसाइड बिल्डिंग्स बैन्टीलेशन एण्ड रेनवाटर सिस्टम	13592	
14.	9537593	26-10-2005	पैनम कास्टिंग प्रा. लि. प्लाट नं. 795, गुधरौली, जी टी रोड, चौडगारा, फेतहपुर	स्टील ट्यूब्स फार स्ट्रक्चरल परपज	1161	
15.	9538090	03-08-2006	स्टैन्डर्ड निवाड़ मिल्स डी-24, पनकी इण्डस्ट्रियल इस्टेट, साइट नं.-1, कानपुर-208 022 (उ.प्र.)	काटन ड्रिल्स	177	
16.	9536793	03-08-2006	स्टैन्डर्ड निवाड़ मिल्स डी-24, पनकी इण्डस्ट्रियल इस्टेट, साइट नं.-1, कानपुर-208 022 (उ.प्र.)	काटन सेलुलर शर्टिंग्स	1144	
17.	9538191	03-08-2006	स्टैन्डर्ड निवाड़ मिल्स डी-24, पनकी इण्डस्ट्रियल इस्टेट, साइट नं.-1, कानपुर-208 022 (उ.प्र.)	पालिएस्टर ब्लेण्ड शर्टिंग्स फार यूनीफार्म	11815	
18.	9536894	03-08-2006	स्टैन्डर्ड निवाड़ मिल्स डी-24, पनकी इण्डस्ट्रियल इस्टेट, साइट नं.-1, कानपुर-208 022 (उ.प्र.)	पालिएस्टर ब्लेण्ड सूटिंग्स फार यूनीफार्म	11248	

[सं. : सीएमडी-1/13 : 11]

एस. के. चौधरी, उपमहानिदेशक (मुहर)

New Delhi, the 16th November, 2006

S.O. 4469.—In pursuance of sub-regulation (5) of the Regulation of the Bureau of Indian Standards (Certification) Regulations, 1988, of the Bureau of Indian Standards, hereby notifies the grant of licences particulars of which are given in the following schedule :

SCHEDULE
2005-2006

Sl. No.	Licence No.	Grant Date	Name and Address of the Party	Title of the Standard	IS No. Part/Sec. /Year
1.	9471993	03-06-2005	Shivang Cold Storage Agra Road, Sasni, Hathras, Mahamaya Nagar	Packaged Drinking Water (other than Packaged Natural Mineral Water)	14543
2.	9474801	04-07-2005	Sterling Agro Industries Vill : Bhitauna, Soron Road, Kasganj, Etah (U.P.)	Skimmed Milk Powder Standard Grade	13334 (Pt. 1)
3.	9478607	04-08-2005	Sterling Agro Industries Vill : Bhitauna, Soron Road, Kasganj, Etah (UP)	Milk Powder	1165
4.	9480994	22-08-2005	Sterling Agro Industries Vill : Bhitauna, Soron Road, Kasganj, Etah (UP)	Skimmed Milk Powder Standard Grade	13334 (Pt 2)
5.	9486808	29-09-2005	Mital Chemical Industries E-47, Foundry Nagar, Hathras Road, Agra-282 006	Disinfectant Fluids Phenolic Type	1061
6.	9496104	25-10-2005	Prabhat Chemical Industries E-21, Foundry Nagar, Agra-282 006	Hydrochloric Acid	265
7.	9490694	24-10-2005	Shrivatsa International Vill : Gudhrauli, P.O. Aung, Fatehpur	Cotton Drills	177
8.	9450593	24-10-2005	Shrivatsa International Vill : Gudhrauli, P.O. Aung, Fatehpur	Cotton Cellular Shirting	1144
9.	9492092	16-11-2005	Shrivatsa International Vill : Gudhrauli, P.O. Aung, Fatehpur	Polyester Blend Shirting for Uniforms	11815
10.	9492193	16-11-2005	Shrivatsa International Vill : Gudhrauli, P.O. Aung, Fatehpur	Polyester Blend Shirting for Uniforms	11248
11.	9490997	08-11-2005	Prabhat Chemical Industries E-21, Foundry Nagar, Agra-282 006	Sulphuric Acid	266

Sl. No.	Licence No.	Grant Date	Name and Address of the Party	Title of the Standard	IS No. Part/Sec./Year
12.	9493397	30-11-2005	Sweet Plastic pipes Alampur Hauze, Agra Road, Etawah-206 001	Unplasticized PVC Pipes for Potable Water Supplies	4985
13.	9496003	09-12-2005	Kumar Beverages Kumar Palace, Rambag, Agra-208 006	Packaged Drinking Water (Other than Packaged Natural Mineral Water)	14543
14.	9497611	09-12-2005	Tasty Dairy Specialities C-2 to C-5, Udyog Kunj, Panki Indl. Area, Site V, Kanpur-208 022.	Milk Powder	1165
15.	9500166	20-12-2005	Shining Engg. Works D-19, Foundry Nagar, Hathras Road, Agra-282 006	Cast Iron/Ductile Iron Drainage Pipes and Pipe Fittings for Over Ground Non-Pressure Pipeline Socket & Spigot Series	1729
16.	9500469	19-12-2005	R. G. Mechanical D-40, Panki Indl. Estate, Site II, Kanpur-208 022	PVC Insulated Cables for working voltages upto and including 1100 V	694
17.	9503576	23-12-2005	Ganga Dairy Ramghat Road, Atrauli Aligarh (UP)	Skimmed Milk Powder Extra Grade	13334 (Pt. 2)
18.	9501976	23-12-2005	Bengal Chemicals 84/23, Factory Area, Fazalganj, Kanpur-208 012		539
19.	9502069	27-12-2005	Tasty Dairy Specialities C-2 to C-5, Udyog Kunj, Panki Indl. Area, Site V, Kanpur-208 022	Skimmed Milk Powder Extra Grade	13334 (Pt 2)
20.	9497712	23-12-2005	Basant Agriculture Ind. 11 B/100 A A, Foundry Nagar, Hathras Road, Agra-282 006	Power Threshers-Safety requirements	9020
21.	9498411	23-12-2005	Texile International G-36 & C-10, Panki Indl. Area, Site I, Kanpur-208 022 (UP)	Cotton Drills	177
22.	9498310	23-12-2005	Textile International, G-36 & C-10, Panki Indl. Area, Site I, Kanpur-208 022 (UP)	Cotton Cellular Shirting	1144
23.	9498108	23-12-2005	Textile International G-36 & C-10, Panki Indl. Area, Site I, Kanpur-208 022 (UP)	Polyester Blend Shirting for Uniforms	11815
24.	9498209	23-12-2005	Textile International G-36 & C-10, Panki Indl. Area, Site I, Kanpur-208 022 (UP)	Polyester Blend Shirting for Uniforms	11248

Sl. No.	Licence No.	Grant Date	Name and Address of the Party	Title of the Standard	IS No.	Part/Sec/Year
25.	9500671	29-12-2005	Roll Tubes Bindki Road, Chaudegra, Fathepur (UP)	Tubular Steel Poles for overhead power lines	2713	
26.	9500570	29-12-2005	Quality Steel Products 133/1, Juhi Gaushala, Kanpur-208 014 (UP)	Tubular Steel Poles for overhead power lines	2713	
28.	9503778	18-01-2006	Biotech International 9/122, Motibagh, Jamunapar, Agra-282006 (UP)	Neem Based EC Containing Azadirachtin	14300	
30.	9505277	30-01-2006	Dhruv Industrial Co. Ltd. B-20, UPSIDC Indl. Area, Bharua Sumerpur, Hamirpur	Portland Pozzolana Cement Fly Ash Based	1489 (Pt 1)	
31.	9505176	02-02-2006	Rama Dairy Products Rama Puram, Etah Road, Aligarh (UP)	Skimmed Milk Powder Standard Grade	13334 (Pt 1)	
32.	9505378	02-02-2006	Shalimar Perto Products Nandgaon Road, Vill. Barhana, Kosikalan, Mathura	Bitumen Felts for Water Proofing and Damp Proofing	1322	
33.	9506077	02-02-2006	Ensefi Bituminous Products 253 Goharo Gram, Chatta, Mathura-281401	Bitumen Polymer and rubber modified	15462	
34.	9506986	17-02-2006	Mansarovar Food Process Ram Nagar, Jhansi Road, Orai, Jalaun-285001	Packaged Drinking Water (other than Packaged Natural Mineral Water)	14543	
35.	9509790	23-2-2006	Benara Pumps Pvt. Ltd. 15 Km. Mile Stone, Artoni, Agra-282007 (UP)	Motors for Submersible Pumpsets	9283	
36.	9507988	23-02-2006	L. Kashinath Jewellers 58/5 Birhana Road, Kanpur-208001	Gold and Gold Alloys Jewellery/Artefacts	1417	
37.	9508081	23-02-2006	L. Kashinath Jewellers 58/5 Birhana Road, Kanpur-208001	Silver & Silver Alloys, Jewellery/Artefacts	2112	
38.	9509891	03-03-2006	Abhushan Jewellers Suresh Plaza, M. G. Road, Agra-282002 (UP)	Gold and Gold Alloys Jewellery/Artefacts	1417	
39.	9514379	16-03-2006	Atul Polyplast Nunhai Indl. Area, Agra (UP)	Rotational moulded Polyethyiene Water storage tank	12701	
40.	9516282	20-03-2006	Auto Tech Engineers F-41, Panki Indl. Area, Site-II, Kanpur-208022	Protective Steel Toe Caps for Footwear	5852	
41.	9513478	21-03-2006	Radhey Radhey Ispat D-17 to 21, Indl. Area, Malwan, Fatehpur (UP)	High Strength Deformed Steel Bars & Wires for concrete reinforcement	1786	
42.	9516484	21-03-2006	Heinz India Pvt. Ltd Manjurgarhi, Aligarh 202001 (UP)	Milk Powder	1165	

Sl. No.	Licence No.	Grant Date	Name and Address of the Party	Title of the Standard	IS No. Part/Sec/Year
43.	9515381	24-03-2006	Swastika Industries D-83 Panki Indl. Area, Site IV, Kanpur 208 020 (UP)	Insecticidal Space Spray	1824
44.	9517486	28-03-2006	K. N. Goel Vill : Ruheri, Raghaniya Road, Sasni, Hathras	Cast Iron/Ductile Iron Drainage Pipes and Pipe Fittings for Over Ground Non-Pressure Pipeline Socket & Spigot Series	1729
45.	9516585	29-03-2006	Status Sanitech Pvt. Ltd. S-2, Industrial Area, Site-A, Agra Delhi Byepass Road, Mathura-281 004	Copper alloy fancy single taps, combination tap assembly and stop valves for water service	8931
46.	9517890	31-03-2006	Power Conductors 127/747, W-1, Saket Nagar, Kanpur 208 014	Aluminium conductors galvanized steel reinforced for overhead transmission purposes	398 (Pt 2)
47.	9515785	31-03-2006	Sona Jewellers 59/41, Birlana Road, Kanpur 208 004 (UP)	Gold and Gold Alloys Jewellery/Artefacts	1417
48.	9515886	31-03-2006	Sona Jewellers 59/41, Birlana Road, Kanpur 208 004 (UP)	Silver and Silver, Alloys Jewellery/Artefacts	2112
2006-2007					
1.	9516888	13-4-2006	A. R. Thermosets Pvt. Ltd. C-58 UPSIDC Indl. Area, Malwan, Fatehpur	Bitumen Polymer and Rubber Modified	15462
2.	9517991	16-4-2006	Raghav Industries Byepass Road, Pukhrayan, Kanpur Dehat	Domestic Pressure Cookers	2347
3.	9518286	21-4-2006	Atul Pumps Unit II Nunhai, Firozabad, Link Road, Agra	Unplasticized PVC Screen and Casing Pipes for bore/tube- well	12818
4.	9520475	25-4-2006	Sangam Structural A-29, UPSIDC Indl. Area, Naini, P.O. TSL, Naini, Allahabad-211 010	Carbon steel cast billet ingots, billets, blooms and slabs for rerolling into steel for general structural purposes	2830
5.	9523686	2-5-2006	Mital Chemicals E-47, Foundry Nagar, Hathras Road, Agra-282006	De-odorising-cum- disinfectant fluids	10758
6.	9529901	2-6-2006	Rama Dairy Products Rama Puram, Etah Road, Aligarh (U.P.)	Milk Powder	1165
7.	9530680	28-6-2006	Dhruv Industrial Co. B-20, UPSIDC Indl. Area, Bharua Sumerpur, Hamirpur	Ordinary Portland Cement	8112

Sl. No.	Licence No.	Grant Date	Name and Address of the Party	Title of the Standard	IS No. Part/Sec/Year
8.	9531177	6-7-2006	Rama Dairy Products Rama Puram, Etah Road, Aligarh (U.P.)	Skimmed Milk Powder Extra Grade	13334 (Pt 2)
9.	9531581	7-7-2006	Raj Milk Products D-192, Shyam Nagar, Kanpur-208013	Skimmed Milk Powder Standard Grade	13334 (Pt 1)
10.	9531682	7-7-2006	Raj Milk Products D-192, Shyam Nagar, Kanpur-208013	Skimmed Milk Powder Extra Grade	13334 (Pt 2)
11.	9535084	21-7-2006	Adhunik Plastic Pvt. Ltd. H-3 to H-5, UPSIDC, Indl. Area, Jainpur, Kanpur Dehat-209311	Unplasticized PVC Pipes for Potable Water Supplies	4985
12.	9538292	28-7-2006	Swastic Pipes Ltd. Vill. Kotwan, Kosikalan, Mile Stone 97, NH-2, Mathura	Line Pipe	1978
13.	9536591	26-4-2006	Adhunik Plastic P. Ltd. H-3 to H-5, UPSIDC Indl. Area, Jainpur Kanpur Dehat-209311	UPVC Pipes for soil and waste discharge systems inside buildings including ventilation and rainwater system	13592
14.	9537593	26-10-2005	Panem Castings P. Ltd. Plot No. 795, Gudhrauli, G. T. Road, Chaudhgra, Fatehpur	Steel tubes for structural purposes	1161
15.	9538090	3-8-2006	Standard Niwar Mills D-24, Panki Indl. Estate, Site No. 1, Kanpur-208022 (U.P.)	Cotton Drills	177
16.	9536793	3-8-2006	Standard Niwar Mills D-24, Panki Indl. Estate, Site No. 1, Kanpur-208022 (U.P.)	Cotton Cellular Shirting	1144
17.	9538191	3-8-2006	Standard Niwar Mills D-24, Panki Indl. Estate, Site No. 1, Kanpur-208022 (U.P.)	Polyester Blend Shirting for Uniforms	11815
18.	9536894	3-8-2006	Standard Niwar Mills D-24, Panki Indl. Estate, Site No. 1, Kanpur-208022 (U.P.)	Polyester Blend Shirting for Uniforms	11248

[No. CMD-1/13: 11]

S.K. CHAUDHURI, Dy. Director General (Marks)

नई दिल्ली, 17 नवम्बर, 2006

का.आ. 4470.—भारतीय मानक व्यूरो नियम, 1987 के नियम 7 के उप-नियम (1) के खंड (ख) के अनुसरण में भारतीय मानक व्यूरो एतद्वारा अधिसूचित करता है कि नीचे अनुसूची में दिये गये मानक(को) में संशोधन किया गया/किये गये हैं :

अनुसूची

क्रम संख्या	संशोधित भारतीय मानक की संख्या और वर्ष	संशोधन की संख्या और तिथि	संशोधन लागू होने की तिथि
(1)	(2)	(3)	(4)
1.	आई एस 1239 (भाग 2) : 1992-मृदु इस्पात के पाइप नलिकाकार और पिटवा इस्पात की अन्य फिटिंगें भाग 2 मृदु इस्पात साकेट नलिकाकार तथा पिटवा इस्पात की अन्य पाइप फिटिंगें-विशिष्टि (चौथा-पुनरीक्षण)	संशोधन संख्या 4, अप्रैल 2006	4-10-2006

इन संशोधनों की प्रतियाँ भारतीय मानक व्यूरो मानक भवन, 9 बहादुर शाह जफर मार्ग, नई दिल्ली-110002, क्षेत्रीय कार्यालयों नई दिल्ली, कोलकाता, चंडीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों : अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पूणे तथा निरुचनन्तापुरम में बिक्री हेतु उपलब्ध हैं।

[सं. एमटीडी 19/टी-31]

डॉ. श्रीमति स्नेह भाटला, वैज्ञानिक 'एफ' एवं प्रमुख (एमटीडी)

New Delhi, the 17th November, 2006

S.O. 4470.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that the amendments to the Indian Standards, particulars of which are given in the Schedule hereto annexed have been issued :

SCHEDULE

Sl. No.	No. and year of the Indian Standards	No. and year of the amendment	Date from which the amendment shall have effect
(1)	(2)	(3)	(4)
1.	IS 1239 (Part 2) : 1992 Specification for Mild steel tubes, tubulars and other wrought steel fittings, Part 2: Mild steel sockets tubulars and other wrought steel pipe fittings (fourth revision)	Amendment No. 4, April 2006	4-10-2006

Copy of this Standard is available for sale with the Bureau of Indian Standards, Manak Bhavan, 9 Bahadur Shah Zafar Marg, New Delhi-110002 and Regional Offices : New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices: Ahmedabad, Bangalore, Bhopal, Bhubaneshwar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, Thiruvananthapuram.

[No. MTD 19/T-31]

Dr. Mrs. SNEH BHATLA, Sc. 'F' & Head (MTD)

कोयला मंत्रालय

आदेश

नई दिल्ली, 17 नवम्बर, 2006

का.आ. 4471.—कोयला धारक क्षेत्र (अर्जन और विकास) अधिनियम, 1957 (1957 का 20) (जिसे इसमें पश्चात् उक्त अधिनियम कहा गया है) की धारा 9 की उप-धारा (1) के अधीन जारी की गई भारत सरकार के कोयला मंत्रालय की अधिसूचना संख्या का.आ. 2907 तारीख 25 अक्टूबर, 2004, जो भारत के राजपत्र भाग 2, खंड 3, उप-खंड (ii) तारीख 13 नवम्बर, 2004 में प्रकाशित की गई थी, उक्त

अधिसूचना से संलग्न अनुसूची में वर्णित ऐसी भूमि (जिन्हें इसमें इसके पश्चात उक्त भूमि कहा गया है) में या उस पर के अधिकार, उक्त अधिनियम की धारा 10 की उप-धारा (1) के अधीन, सभी विलंगमां से मुक्त होकर, आत्मैतिक रूप से केन्द्रीय सरकार में निहित हो गए थे;

और केन्द्रीय सरकार का समाधान हो गया है कि वेस्टर्न कोलफील्ड्स लिमिटेड, नागपुर (जिसे इसमें इसके पश्चात सरकारी कंपनी कहा गया है) ऐसे निबंधनों और शर्तों का जिन्हें केन्द्रीय सरकार इस निमित्त अधिरोपित करना उचित समझे, अनुपालन करने के लिए रजामंद है;

अतः, अब, केन्द्रीय सरकार उक्त अधिनियम की धारा 11 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निवेश देती है कि उक्त भूमि और उक्त भूमि में इस प्रकार निहित या उस पर के सभी अधिकार तारीख 13 नवम्बर, 2004 से केन्द्रीय सरकार में इस प्रकार निहित बने रहने के बाजाए, निम्नलिखित निबंधनों और शर्तों के अधीन रहते हुए, उक्त सरकारी कंपनी में निहित हो जाएंगे, अर्थातः—

1. उक्त सरकारी कंपनी, उक्त अधिनियम के उपबंधों के अधीन यथा अवधारित प्रतिकर व्याज, नुकसान और वैसी ही मदों की बाबत किए गए सभी संदायों की केन्द्रीय सरकार को प्रतिपूर्ति करेगी ।
2. उक्त सरकारी कंपनी द्वारा शर्त (1) के अधीन, केन्द्रीय सरकार को संदेय रकमों का अवधारण करने के प्रयोजनों के लिए एक अधिकरण का गठन किया जाएगा तथा ऐसे किसी अधिकरण और अधिकरण की सहायता के लिए नियुक्त किए गए व्यक्तियों के संबंध में उपगत सभी व्यय सरकारी कंपनी वहन करेगी और वैसे ही इस प्रकार निहित उक्त भूमि में या उस पर निहित होने वाले उक्त अधिकारों के लिए या उनके संबंध में सभी विधिक कार्यवाहियों, जैसे अपील आदि की बाबत उपगत, सभी व्यय भी सरकारी कंपनी वहन करेगी।
3. उक्त सरकारी कंपनी, केन्द्रीय सरकार या उसके पदधारियों की, ऐसे किसी अन्य व्यय के संबंध में, जो उक्त भूमि में या उस पर इस प्रकार निहित होने वाले पूर्वोक्त अधिकारों के बारे में, केन्द्रीय सरकार या उसके पदधारियों या उनके विरुद्ध किन्हीं कार्यवाहियों के संबंध में आवश्यक हो, क्षतिपूर्ति करेगी ।
4. उक्त सरकारी कंपनी को, केन्द्रीय सरकार के पूर्व अनुमोदन के बिना, उक्त भूमि में इस प्रकार निहित होने वाले पूर्वोक्त अधिकारों को अन्य व्यक्ति को अंतरित करने की शक्ति नहीं होगी; और
5. उक्त सरकारी कंपनी, ऐसे निर्देशों और शर्तों का, जो केन्द्रीय सरकार द्वारा जब कभी आवश्यक हो, उक्त भूमि के विशिष्ट क्षेत्रों के लिए दिए जाएं या अधिरोपित किए जाएं, पालन करेगी ।

[फा. सं. 43015/7/2002-पी.आर.आई.डब्ल्यू.]

एम. शहाबुद्दीन, अवर सचिव

MINISTRY OF COAL ORDER

New Delhi, the 17th November, 2006

S.O. 4471.—Whereas on the publication of the notification of the Government of India in the Ministry of Coal number S.O. 2907, dated the 25th October, 2004, published in the Gazette of India, Part II, Section 3, sub-section (ii) dated the 13th November, 2004, under sub-section (1) of Section 9 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957) (hereinafter referred to as the said Act), the lands and rights in or over such lands described in the Schedule appended to the said notification (hereinafter referred to as the said lands) vested absolutely in the Central Government free from all encumbrances under sub-section (1) of Section 10 of the said Act;

And whereas the Central Government is satisfied that the Western Coalfields Limited, Nagpur (hereinafter referred to as the Government Company), is willing to comply with such terms and conditions as the Central Government thinks fit to impose in this behalf;

Now, therefore, in exercise of the powers conferred by sub-section (1) of Section 11 of the said Act, the Central Government hereby directs that the said lands and rights in or over the said lands so vested shall, with effect from the 13th November, 2004 instead of continuing to so vest in the Central Government, shall vest in the said Government Company, subject to the following terms and conditions namely:—

1. The said Government Company shall reimburse the Central Government all payments made in respect of compensation, interest, damages and the like, as determined under the provisions of the said Act;
2. A tribunal shall be constituted for the purpose of determining the amounts payable to the Central Government by the Government Company under condition (1), and all expenditure incurred in connection with any such tribunal and persons appointed to assist the tribunal shall be borne by the Government Company and similarly, all expen-

iture incurred in respect of all legal proceedings like appeals, etc., for or in connection with the rights, in or over the said lands, so vesting shall also be borne by the Government Company;

3. The said Government Compay shall indemnify the Central Government and its officials against any other expenditure that may be necessary in connection with any proceedings by or against the Central Government or its officials regarding the aforesaid rights in or over the said lands so vested;
4. The said Government Company shall have no power to transfer the aforesaid rights in the said lands so vested to any other person without the previous approval of the Central Government; and
5. The said Government Company shall abide by such directions and conditions as may be given or imposed by the Central Government for particular areas of the said land as and when necessary.

[F. No. 43015/7/2002-PRTW]

M. SHAHABUDEEN, Under Secy.

पेट्रोलियम और प्राकृतिक गैस मंत्रालय

नई दिल्ली, 20 नवम्बर, 2006

का.आ. 4472.—केन्द्रीय सरकार को लोकहित में यह आवश्यक प्रतीत होता है कि गुजरात राज्य में दहेज-हजीरा-उरान एवं स्पर पाइपलाईन द्वारा प्राकृतिक गैस के परिवहन के लिए गेल (इण्डिया) लिमिटेड द्वारा, एक पाइपलाईन बिछाई जानी चाहिए।

और केन्द्रीय सरकार को उक्त पाइपलाईन बिछाने के प्रयोजन के लिए यह आवश्यक प्रतीत होता है कि उस भूमि में, जिसमें उक्त पाइपलाईन बिछाए जाने का प्रस्ताव है और जो इस अधिसूचना से संलग्न अनुसूची में वर्णित है, उपयोग के अधिकार का अर्जन किया जाए;

अतः, अब, केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाईन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उप-धारा (1) प्रदत्त शक्तियों का प्रयोग करते हुए उस भूमि में उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा करती है ;

कोई व्यक्ति, जो उक्त अनुसूची में वर्णित भूमि में हितबद्ध है, उस तारीख से जिसको उक्त अधिनियम की धारा 3 की उप-धारा (1) के अधीन भारत के राजपत्र में यथा प्रकाशित इस अधिसूचना की प्रतियां साधारण जनता को उपलब्ध करा दी जाती है, इक्कीस दिन के भीतर, भूमि के नीचे पाइपलाईन बिछाए जाने के संबंध में, श्री एस.के. राठौड़, सक्षम प्राधिकारी, गेल (इण्डिया) लिमिटेड, इच्छापुर-मगदल्ला रोड, पुरानी कलोनी, ओ.एन.जी.सी. सर्कल के पास, हजीरा, सूरत (गुजरात) को लिखित रूप में आक्षेप भेज सकेगा।

अनुसूची

जिला	तहसील	गांव	सर्वे नं.	आर.ओ.यू.अर्जित करने के लिए शे. (हेक्ट.में)
1	2	3	4	5
वलसाड	वलसाड	गोरगाम	913	0.0963
			115	0.6336
वलसाड	वलसाड	वागलधरा	649	0.0938
			650बी } 650ए }	0.2495
			646	0.0178
			632	0.0713
			633	0.1219
			634	0.0832

[फा. सं. एल.-14014/12/06-जी.पी. (भाग-I)]

एस. बी. मण्डल, अवर सचिव

MINISTRY OF PETROLEUM AND NATURAL GAS

New Delhi, the 20th November, 2006

S.O. 4472.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transportation of natural gas through Dahej-Hazira-Uran and its spur pipeline project in the State of Gujarat, a pipeline should be laid by the GAIL (India) Limited;

And, whereas it appears to the Central Government that for the purpose of laying the said pipeline, it is necessary to acquire the Right of User in the Land under which the said pipeline is proposed to be laid and which is described in the Schedule annexed to this notification;

Now, therefore, in exercise of the powers conferred by sub-section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1972, the Central Government hereby declares its intention to acquire the right of user therein.

Any person interested in the land described in the said Schedule may, within twenty one days on which the copies of the notification issued under sub-section (1) of Section 3 of the said Act, as published in the Gazette of India are made available to the general public, object in writing to the laying of the pipeline under the land to Shri S.K. Rathod, Competent Authority, GAIL (India) Limited, Ichhapore-Magdalla Road, Old Colony, Near ONGC Circle, Hazira, Surat (Gujarat).

SCHEDULE

District	Tahsil	Village	Survey No.	Area to be acquired for R.O.U. (in Hect.)
1	2	3	4	5
Valsad	Valsad	Gorgam	913	0.0963
			115	0.6336
-do-	-do-	Vaghaldhara	649	0.0938
			650B } 650A }	0.2495
			646	0.0178
			632	0.0713
			633	0.1219
			634	0.0832

[F. No. L-14014/I2/06-G.P.(Part-I)]

S.B. MANDAL, Under Secy.

नई दिल्ली, 20 नवम्बर, 2006

का.आ. 4473.—केन्द्रीय सरकार को लोकहित में यह आवश्यक प्रतीत होता है कि गुजरात राज्य में दहेज-हजारा-उरान एवं स्पर पाइपलाईन द्वारा प्राकृतिक गैस के परिवहन के लिए गेल (इण्डिया) लिमिटेड द्वारा, एक पाइपलाईन बिछाए जानी चाहिए।

और केन्द्रीय सरकार को उक्त पाइपलाईन बिछाने के प्रयोजन के लिए यह आवश्यक प्रतीत होता है कि उस भूमि में, जिसमें उक्त पाइपलाईन बिछाए जाने का प्रस्ताव है और जो इस अधिसूचना से संलग्न अनुसूची में वर्णित है, उपयोग के अधिकार का अर्जन किया जाए;

अतः, अब केन्द्रीय सरकार पेट्रोलियम और खनिज पाइपलाईन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए उस भूमि में उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा करती है;

कोई व्यक्ति, जो उक्त अनुसूची में वर्णित भूमि में हितबद्ध है, उस तारीख से भूमि को उक्त अधिनियम की धारा 3 की उप-धारा (1) के अधीन भारत के राजपत्र में यथा प्रकाशित इस अधिसूचना की प्रतीत्यां साधारण जाति को उपलब्ध करा दी जाती है, इक्कीस दिन के भीतर, भूमि के नीचे पाइपलाईन बिछाए जाने के संबंध में, श्री एस.के. राठौड़, सक्षम प्राधिकारी, गेल (इण्डिया) लिमिटेड, हजारपुर-मगदलला रोड, पुरानी कॉलोनी, ओ.एन.जी.सी. सर्कल के पास, हजारा, सूरत (गुजरात) को लिखित रूप में आक्षेप भेज सकेगा।

अनुसूची

जिला	तहसील	गांव	सर्वे नं.	आर.ओ.यू.अर्जित करने के लिए क्ष. (हेक्टर में)
1	2	3	4	5
नवसारी	गणदेवी	इच्छापुर	606	0.2550
नवसारी	जलालपुर	अठाण	67	0.1500
			68	0.1200
			69	0.1350
			70	0.0825
			73	0.0600
			74	0.0015

[फा. सं. एल.-14014/12/06-जी.पी. (भाग-1)]

एस. बी. मण्डल, अवर सचिव

New Delhi, the 20th November, 2006

S.O. 4473.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transportation of natural gas Dahej-Hazira-Uran and its spur pipeline project in the State of Gujarat, a pipeline should be laid by the GAIL (India) Limited;

And, whereas it appears to the Central Government that for the purpose of laying the said pipeline, it is necessary to acquire the Right of user in the land under which the said pipeline is proposed to be laid and which is described in the Schedule annexed to this notification;

Now, therefore, in exercise of the powers conferred by sub-section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962, the Central Government hereby declares its intention to acquire the right of user therein.

Any person interested in the land described in the said Schedule may, within twenty one days from the date on which the copies of the notification issued under sub-section (1) of Section 3 of the said Act, as published in the Gazette of India are made available to the general public, object in writing to the laying of the pipeline under the land to Shri S. K. Rathod, Competent Authority, GAIL (India) Limited, Ichhapore-Magdalla Road, Old Colony, Near ONGC Circle, Hazira, Surat (Gujarat).

SCHEDULE

District	Tahsil	Village	Survey No.	Area to be acquired for R.O.U. (in Hect.)
1	2	3	4	5
Navsari	Gandevi	Ichhpur	606	0.2550
Navsari	Jalalpur	Ethan	67	0.1500
			68	0.1200
			69	0.1350
			70	0.0825
			73	0.0600
			74	0.0015

[F. No. L-14014/12/06-G.P. (Part-I)]

S. B. MANDAL, Under Secy.

नई दिल्ली, 20 नवम्बर, 2006

का. आ. 4474.—केन्द्रीय सरकार ने पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 3 की उपधारा (1) के अधीन जारी की गई भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना संख्या का. आ. 1259 तारीख 1 अगस्त 2006 द्वारा उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में, मैसर्स रिलायंस इंडस्ट्रीज लिमिटेड, के गोदा में उत्तरी/ दक्षिणी अपतट में खोज ब्लॉकों और आन्ध्र प्रदेश में संरचनाओं से आन्ध्रप्रदेश राज्य में रंगारेडी जिले के विभिन्न उपभोक्ताओं तक प्राकृतिक गैस के परिवहन के लिये, एक रिलायंस समूह कम्पनी, मैसर्स रिलायंस गैस ट्रान्सपोर्टेशन इन्फ्रास्ट्रक्चर लिमिटेड, पूर्ववत् मैसर्स रिलायंस गैस पाइपलाइन्स लिमिटेड, द्वारा पाइपलाइन विभाने के प्रयोजन के लिये उपयोग के अधिकार का अर्जन के अपने आशय की घोषणा की थी;

और उक्त राजपत्र अधिसूचना की प्रतियों जनता को तारीख 14 अगस्त 2006 को उपलब्ध करा दी गई थी;

और पाइपलाइन विभाने के संबंध में जनता की ओर से कोई आक्षेप प्राप्त नहीं हुआ है।

और सकाम प्राधिकारी ने उक्त अधिनियम की धारा 6 की उपधारा (1) के अधीन केन्द्रीय सरकार को अपनी रिपोर्ट दे दी है;

और केन्द्रीय सरकार ने, उक्त रिपोर्ट पर विचार करने के पश्चात् और यह समाधान हो जाने पर कि उक्त भूमि पाइपलाइन विभाने के लिये अपेक्षित है, उसमें उपयोग के अधिकार का अर्जन करने का विनिश्चय किया है;

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह घोषणा वर्ती है कि इस अधिसूचना से संलग्न अनुसूचीमें विनिर्दिष्ट भूमि में पाइपलाइन विभाने के लिये उपयोग के अधिकार का अर्जन किया जाता है;

और, केन्द्रीय सरकार उक्त अधिनियम की धारा 6 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह निर्देश देती है कि उक्त भूमि में उपयोग का अधिकार इस घोषणा के प्रकाशन की तारीख से केन्द्रीय सरकार में निहित होने की वजाए, सभी विलंगमें से मुक्त, मैसर्स रिलायंस गैस ट्रान्सपोर्टेशन इन्फ्रास्ट्रक्चर लिमिटेड में निहित होगा।

अनुसूची						
गाँव का नाम	सर्वे नंबर	सद-डिविजन नंबर	आर ओ यू अर्जित करने के लिए दैनंदिनकाल			सि एस
			हेक्टेयर	एकर	सि एस	
1	2	3	4	5	6	
मंडल १ : मरपलि	जि. ला. १ : रंगारेडी					राज्य १ : आन्ध्र प्रदेश
1. घनापुर	57	-	1	36	50	

[फा. सं. एल-14014/18/2006-जी.पी.]
एस. बी. मण्डल, अवर सचिव

New Delhi, the 20th November, 2006

S.O. 4474.—Whereas by notification of the Government of India in the Ministry of Petroleum and Natural Gas number S. O. 1259 dated the 1st August 2006, issued under sub section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962) (hereinafter referred to as the said Act) , the Central Government declared its intention to acquire the right of user in the land, specified in the Schedule appended to that notification of the purpose of laying pipeline for transportation of natural gas from the exploration blocks in the Northern / Southern offshore of Goa and structures in Andhra Pradesh of M/s Reliance Industries Limited by a Reliance Group company, M/s Reliance Gas Transportation Infrastructure Limited formerly known as M/s Reliance Gas Pipelines Limited, to various consumers of District Rangareddy in the State of Andhra Pradesh ;

And whereas the copies of the said Gazette notification were made available to the public on 14th August, 2006;

And whereas **no** objection received from the public to the laying of the pipeline

And whereas the Competent Authority has, under sub -section (1) of section 6 of said Act, submitted report to the Central Government;

And whereas the Central Government, after considering the said report and on being satisfied that the said land is required for laying the pipeline, has decided to acquire the right of user therein. ;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 6 of the said Act, the Central Government hereby declares that the right of user in land, specified in the Schedule, appended to this notification, is hereby acquired for laying the pipeline;

And further, in exercise of the powers conferred by sub-section (4) of section 6 of the said Act, Central Government hereby directs that the right of user in the said land for laying the pipeline shall, instead of vesting in the Central Government, vest on the date of publication of the declaration, in M/s Reliance Gas Transportation Infrastructure Limited, free from the encumbrances.

Schedule

Village	Survey No.	Sub-Division No.	Area to be acquired for ROU		
			Hectare	Are	C-Are
1	2	3	4	5	6
Mandal : Marpalli	District : Rangareddy	State : Andhra Pradesh			
1. Ghanapur	57		1	36	50

[F. No. L-14014/18/2006-G.P.]
S.B MANDAL, Under Secy.

नई दिल्ली, 24 नवम्बर, 2006

का. आ. 4475.—केन्द्रीय सरकार ने पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन), अधिनियम, 1962 (1962 का 50) (जिसे इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 3 की उपधारा (1) के अधीन जगी की गई भाग सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना संख्या का. आ. 1446(अ), तारीख 5 सितम्बर, 2006 द्वारा उस अधिसूचना से संलग्न अनुमूली में विनिर्दिष्ट भूमि में, मैसर्स रिलाएंस इंडस्ट्रीज लिमिटेड के गोवा में उत्तरी/दक्षिणी अपतट में खोज बॉक्सों और आन्ध्रप्रदेश में संरचनाओं से आन्ध्रप्रदेश राज्य में पूर्वी गोदावरी जिले के विभिन्न उपभोक्ताओं तक प्राकृतिक गैस के परिवहन के लिए, एक रिलाएंस समूह कम्पनी, मैसर्स रिलाएंस गैस ट्रान्सपोर्टेशन इन्फ्रास्ट्रक्चर लिमिटेड, पूर्ववत्, मैसर्स रिलाएंस गैस पाइपलाइन विभाने के प्रयोजन के लिए उपयोग के अधिकार का अर्जन के अपने आशय की घोषणा की थी;

और उक्त राजपत्र अधिसूचना की प्रतियाँ जनता को तारीख 13 सितम्बर, 2006 को उपलब्ध कराई गई थी;

और पाइपलाइन विभाने के संबंध में जनता की ओर से कोई आक्षेप प्राप्त नहीं हुआ है;

और सक्षम प्राधिकारी ने उक्त अधिनियम की धारा 6 की उपधारा(1)के अधीन केन्द्रीय सरकार को अपनी रिपोर्ट देई है;

और केन्द्रीय सरकार ने, उक्त रिपोर्ट पर विचार करने के पश्चात् और यह समाधान हो जाने पर कि उक्त भूमि पाइपलाइन विभाने के लिए अपेक्षित है, उसमें उपयोग के अधिकार का अर्जन करने का विनिश्चय किया है;

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उपधारा(1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह घोषणा करती है कि इस अधिसूचना से संलग्न अनुमूली में विनिर्दिष्ट भूमि में पाइपलाइन विभाने के लिए उपयोग के अधिकार का अर्जन किया जाता है;

और, केन्द्रीय सरकार उक्त अधिनियम की धारा 6 की उपधारा(4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निर्देश देती है कि उक्त भूमि में उपयोग का अधिकार इस घोषणा के प्रकाशन की तारीख से केन्द्रीय सरकार में निहित होने की वजाए, सभी विलंगमों से मुक्त, मैसर्स रिलाएंस गैस ट्रान्सपोर्टेशन इन्फ्रास्ट्रक्चर लिमिटेड, में निहित होगा।

अनुसूची

मंडल ४: ताल्लुरेवु

जिला ४: ईस्ट गोदावरी

राज्य ४: आन्ध्रप्रदेश

गाँव का नाम	सर्वे सं। / सब डिविजन सं।	आर ओ यू अर्जित करने के लिए क्षेत्रफल		
		हेक्टेयर	एक्र	सिएक्र
1	2	3	4	5
1) मल्लवरम				
	2	0	04	05
	13/2	0	03	05
	14	0	07	45
	21	0	00	10
	22	0	07	85
	23	0	03	85
	52	0	08	25
	123	0	11	05
	126	0	20	35
2) पोलेकुरु				
	78	0	56	85
	111	0	04	75
	121/1	0	03	60
	148/1	0	00	25
	149/1	0	03	75
	153	0	02	75
	158/2	0	11	50
	159/3	0	04	65
	162	0	03	05
	200/2	0	11	70
	204/3	0	34	55
	212	0	03	50
	214/2	0	21	85
	220	0	09	90
	378/1ए	0	02	00
	379/1ए	0	00	65
	379/1वा	0	00	35
मंडल ४: कान्तुलुर	जिला ४: ईस्ट गोदावरी			राज्य ४: आन्ध्रप्रदेश
1) उन्नापालेम				
	615/2	0	46	00
	619	0	23	30
	621	0	08	00
	636	0	03	55
	637	0	03	60
	639	0	10	10

1	2	3	4	5
2) सिला	327	0	13	80
	335	0	02	90
	376	0	02	65
3) काजुलुर	19/1	0	00	25
	19/2	0	00	15
	32/1	0	00	10
	32/2	0	02	55
	32/6	0	09	05
	32/7	0	11	75
	32/8	0	05	95
	32/9	0	07	00
	32/11	0	02	30
	33/1	0	03	60
	89	0	04	95
	439/1	0	04	35
	453	0	00	05
	456	0	04	50
	458	0	24	80
	466	0	00	55
	575	0	04	45
	721/1	0	02	75
	722/1	0	03	20
	757	0	07	35
	762/3	0	00	10
	775/1	0	04	80
	786	0	02	05
	792	0	13	25
	809	0	04	65
	सङ्केत सर्वे नं 758 में	0	02	30
4) तरलमधूडि	13	0	04	30
	46	0	04	90
	57/1	0	01	00
	59/1	0	00	10
	59/2	0	01	55
	114	0	14	90
	144	0	00	60
	149/3	0	00	15
	183	0	02	70

1	2	3	4	5
4) तरलमपूडि निरंतर	193	0	02	20
5) जगन्नादगिरि	18/2	0	03	50
	19/1	0	07	60
	30/1	0	24	35
	30/2	0	02	90
	30/3	0	00	70
	32	0	08	30
	54/1	0	07	50
	243	0	49	25
	244	0	01	15
	245	0	06	75
	247/1	0	05	00
मुङ्गल : करपा	जिल्ला : ईस्ट गोदावरी		राज्य : आन्ध्रप्रदेश	
1) पेद्धापूरपूडु	53	0	04	30
	69/3	0	02	10
	69/4	0	05	00
	71/1	0	02	80
	173/1	0	01	85
	207/2	0	18	25
	221/2	0	00	10
	452	0	07	00
	519/2	0	05	45
	522	0	02	55
	523	0	01	85
	529	0	02	05
	531/3	0	19	50
2) यन्त्रमूर्ख	322	0	02	20
	338/1	0	02	90
	340	0	05	00
	342	0	52	25
	443	0	03	40
	514	0	10	15
3) जी. भावारम	59	0	03	80
4) सिरिपूरम	6/2	0	02	75
	18	0	07	05
	19/1	0	05	50
	21	0	06	05
	37	0	04	90

1	2	3	4	5
4) सिरिपूरम निरंतर	97	0	01	25
	103	0	04	70
	146	0	03	75
	167/2	0	00	70
5) वेमूलवाडा	21	0	03	45
	37	0	04	80
	38	0	01	50
	55	0	01	85
	62/2	0	05	25
	67	0	00	10
	86	0	07	20
	382/2	0	04	10
	383	0	44	30
	390	0	15	40
6) वाकाडा	103	0	00	20
	104	0	03	35
	129/1	0	01	80
	129/2	0	02	65
	130/2	0	00	10
7) करपा	266	0	02	60
	281	0	01	90
	288	0	04	80
	311	0	00	50
	312	0	02	15
	313	0	01	70
	324	0	01	90
8) आरटलकड्डा	37	0	03	10
	296	0	11	05
	297	0	28	85
	298	0	00	30
	312/1	0	03	35
	313	0	31	80
	319/1	0	05	60
	330	0	07	30
	346	0	22	85
	348	0	00	50
	591	0	01	15
	592/5	0	02	85

1	2	3	4	5
8) आरटलकट्टा निरंतर	593/1 627 664/1	0 0 0	01 03 02	75 40 30
मंडल : रामचन्द्रापुरम्	ज़िला : ईस्ट गोदावरी		राज्य : आन्ध्रप्रदेश	
1) कापवरम्	5 9/1 34 35	0 0 0 0	15 03 05 08	35 60 00 10
2) वोड्सु	99	0	06	60
3) नसापूरपेटा	342/4 387	0 0	01 05	40 35
4) अविकापल्लि	8 13 19/1	0 0 0	05 10 02	90 45 95
5) चोडवरम्	18 28/4 36 37/1 79 90/1 91/1	0 0 0 0 0 0 0	06 00 05 31 02 08 00	10 50 05 60 70 25 20
मंडल: रायवरम्	ज़िला : ईस्ट गोदावरी		राज्य : आन्ध्र प्रदेश	
1) नेडूरुवाडा	46 47/4 47/6 48/4 127/2 195 197 198 214	0 0 0 0 0 0 0 0 0	09 01 09 00 00 03 04 00 00	85 55 00 55 10 85 40 10 80
2) वेदूरुपाका	301/ए 437/3	0 0	07 00	20 25
3) लोल्ला	37/1 147/3 149 187/1 187/5	0 0 0 0 0	04 00 06 00 02	85 75 75 80 10

मंडल/अनपत्ति	1	2	3	4	5
मंडल ४ अनपत्ति	५०	०	जिल्हा ४ ईस्ट गोदावरी		राज्य ४ आन्ध्रप्रदेश
१) महेन्द्रवाडा	८०	०	३०१/३ रु००८	०	०० २०
०६	००	०	३०१/४ रु००८	०	०० १०
८८	४०	०	३०२/२ रु०८	०	०३ ७०
०५	१०	०			
०९	१८	०	३७१/६ रु०८	०	०३ ६५
२) रामवर्स	००	०	३१ रु०६८	०	०८ ८०
०६	००	०	१४३ रु०८९	०	०५ ३०
०६	००	०	१४६/२ रु०८९	०	०१ १०
३२	८०	६	१४८ रु०८९	०	०० १०
५१	००	६	१९८/२ रु०८९	०	३३ ९०
३	८०	०	२०१ रु०८९	०	११ ७०
०८	८०	०			
३) पोलमूर्त	८०	०	९५/४ रु०८९	०	०१ ४५
०५	००	०	९६/७ रु०८९	०	०३ ३०
८४	००	०	१३७/१ रु०८९	०	०४ ०५
०६	८०	०	१४१ रु०८९	०	०६ ८५
मंडल ४ मळ्येट	५०	०	जिल्हा ४ ईस्ट गोदावरी		राज्य ४ आन्ध्रप्रदेश
१) आर्तमूर्त	८०	०	३३/६ रु०८९	०	०५ २५
०६	१०	०	६७/१ रु०८९	०	०३ २०
०८	४३	०	८८ रु०८९	०	११ ५५
८०	१०	०	८९/३ रु०८९	०	०७ ००
०५	८०	०	११४/४ रु०८९	०	०० ६०
००	८०	०	११५ रु०८९	०	०६ ८०
८०	८१	६	११६/४ रु०८९	०	०० १०
८०	८०	०	१२७ रु०८९	०	०० ७५
०५	८२	०	१३३/३ रु०८९	०	०१ ०५
००	८१	०	१३४/३ रु०८९	०	०४ ३५
२) तापेस्वरम्	८०	०	३४० रु०८९	०	०४ २५
०५	४४	०	३५२/७ रु०८९	०	०२ ८०
०८	१०	०			
३) इप्पेनपाट्टू	८०	०	९ रु०८९	०	०१ ७०
०६	११	०	१२/१ रु०८९	०	१९ ९५
८०	१०	०	२४ रु०८९	०	०६ ८०
०५	०१	०	३० रु०८९	०	३७ ०५
०१	८८	०	१२३/१ रु०८९	०	१९ १०
००	८१	०	१२३/५ रु०८९	०	०१ २५
८०	८०	०	१२६/१ रु०८९	०	०४ ५०
०५	८१	०	१२६/२ रु०८९	०	२५ ६०
०१	८२	०	१२६/३ रु०८९	०	२३ २०
०८	८६	०	१३३/७ रु०८९	०	०१ ५५
०५	८०	०	१३३/१४ रु०८९	०	०१ १०
०१	८६	०	१३४ रु०८९	०	०७ ८५
०८	८१	०			

1	2	3	4	5
3) इण्णनपाडू निरंतर	135	0	07	30
4) पालटोडू	75	0	05	50
	90/3	0	00	60
	92/1	0	04	70
	92/2	0	01	10
5) वेलगटोडू	13	0	21	20
	26/3	0	00	65
	26/5	0	00	95
6) केसवरम	42.2/2	0	05	00
	423	0	01	25
	425/1	0	00	10
	439/2	0	03	75
	441/3	0	03	90
	475/1	0	02	30
	476/2	0	00	10
	485/1	0	00	85
	485/2	0	01	00
	485/3	0	02	45
	487/3	0	00	65
	487/9	0	02	80
मंडलः सामलकोट	जिल्हा ४ ईस्ट गोदावरी		राज्य ४ आन्ध्रप्रदेश	
1) माद्यपटनम	148	0	04	25
	158	0	02	05
2) वोयनपूडि	85/1	0	02	10
	95	0	32	05
	97/1	0	13	25
	99	0	08	75
	103	0	03	75
3) मामिल्लदोडि	10	0	16	65
	19	0	09	80
	62	0	17	65
	नाला सर्वे नं 62 में	0	01	80
4) वि. के. रायपूरम	58	0	03	45
	64	0	19	50
	67/3	0	01	75
	180	0	10	55
5) भीमवरम	247	0	32	10
	257/2	0	06	95
	267	0	17	15
	276	0	09	40
	314	0	23	30
	352	0	02	65
6) वेटलपालम	54	0	03	75
7) पनसपाडू	26	0	03	70

1	2	3	4	5
7) पनसपाड़ निरंतर	62/2	0	03	70
	65	0	06	30
	79/7	0	00	10
	79/11	0	01	55
	118	0	35	40
	121/6	0	03	45

[फा. सं. एल-14014/17/2006-जी.पी.]

एस. बी. मण्डल, अवर सचिव

New Delhi, the 24th November, 2006

S. O. 4475.—Whereas by notification of the Government of India in the Ministry of Petroleum and Natural Gas number S.O. 1446(E) dated the 5th September 2006, issued under sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962) (hereinafter referred to as the said Act), the Central Government declared its intention to acquire the right of user in the land, specified in the Schedule appended to that notification for the purpose of laying pipeline for transportation of natural gas from the exploration blocks in the Northern/Southern Offshore of Goa and Structures in Andhra Pradesh of M/s Reliance Industries Limited, to various consumers of District East Godavari in the State of Andhra Pradesh by a Reliance Group company, M/s Reliance Gas Transportation Infrastructure Limited, formerly known as M/s Reliance Gas Pipelines Limited;

And whereas the copies of the said Gazette notification were made available to the public on the 13th September 2006;

And whereas no objections were received from the public to the laying of the pipeline;

And whereas the Competent Authority has, under sub-section (1) of section 6 of the said Act, submitted report to the Central Government;

And whereas the Central Government, after considering the said report and on being satisfied that the said land is required for laying the pipeline, has decided to acquire the right of user therein;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 6 of the said Act, the Central Government hereby declares that the right of user in the land, specified in the Schedule, appended to this notification, is hereby acquired for laying the pipeline;

And further, in exercise of the powers conferred by sub-section (4) of section 6 of the said Act, the Central Government hereby directs that the right of user in the said land for laying the pipeline shall, instead of vesting in the Central Government, vest on the date of publication of the declaration, in M/s Reliance Gas Transportation Infrastructure Limited, free from all encumbrances.

Schedule**Mandal : Tallarevu****District : East Godavari****State : Andhra Pradesh**

Village	Survey No./Sub-Division No.	Area to be acquired for ROU		
		Hectare	Are	C-Are
1	2	3	4	5
1) Mallavaram				
	2	0	04	05
	13/2	0	03	05
	14	0	07	45
	21	0	00	10
	22	0	07	85
	23	0	03	85
	52	0	08	25
	123	0	11	05
	126	0	20	35
2) Polekurru	78	0	56	85
	111	0	04	75
	121/1	0	03	60
	148/1	0	00	25
	149/1	0	03	75
	153	0	02	75
	158/2	0	11	50
	159/3	0	04	65
	162	0	03	05
	200/2	0	11	70
	204/3	0	34	55
	212	0	03	50
	214/2	0	21	85
	220	0	09	90
	378/1A	0	02	00
	379/1A	0	00	65
	379/1B	0	00	35

Mandal : Kajuluru**District : East Godavari****State : Andhra Pradesh**

1) Pallepalem	615/2	0	46	00
	619	0	23	30
	621	0	08	00
	636	0	03	55
	687	0	03	60
	639	0	10	10
2) Sila	327	0	13	80
	335	0	02	90
	376	0	02	65
3) Kajuluru	19/1	0	00	25

2	4	3	2	3	4	5
3) Kalluru Contd.	0	0	59/2	0	00	15
20	50	0	52/1	0	00	10
25	40	0	52/2	0	02	55
15	10	0	52/4	0	09	05
15	00	0	52/7	0	11	75
00	20	0	52/8	0	05	95
			State : Andhra Pradesh	0	00	00
			District : East Godavari	0	02	30
30	40	0	88/11	0	02	30
10	50	0	88/13	0	03	60
00	02	0	88/14	0	04	95
08	50	0	88/11	0	04	35
28	01	0	88/34	0	00	05
25	18	0	88/56	0	04	50
10	00	0	88/58	0	24	80
00	20	0	88/66	0	00	55
24	20	0	88/75	0	04	45
22	50	0	88/1/1	0	02	75
28	01	0	88/2/1	0	03	20
25	50	0	88/77	0	07	35
26	10	0	88/2/3	0	00	10
05	50	0	88/5/1	0	04	100 (S)
08	50	0	88/6	0	02	05
00	02	0	88/92	0	13	25
28	25	0	88/09	0	04	65
04	03	0	Asphalted Road In Survey No. 758	0	02	30
4) Tallamapudi	10	0	88/3	0	04	30
08	80	0	88/6	0	04	30 (C)
25	50	0	88/1	0	01	100 (P)
20	70	0	88/1	0	00	10
20	20	0	88/2	0	01	55
25	80	0	88/14	0	14	90
00	40	0	88/44	0	00	60
25	10	0	88/49/3	0	00	15
05	40	0	88/83	0	02	70
25	80	0	88/93	0	02	20
05	00	0	88/2	0	03	50
21	80	0	88/1	0	07	30 (S)
08	40	0	88/1	0	24	35
05	10	0	88/2	0	02	90
28	10	0	88/3	0	00	70

1	2	3	4	5
5) Jagannadhagiri Contd..	32	0	08	30
	54/1	0	07	50
	243	0	49	25
	244	0	01	15
	245	0	06	75
	247/1	0	05	00
Mandal : Karapa	District : East Godavari	State : Andhra Pradesh		
1) Peddapurappadu	53	0	04	30
	69/3	0	02	10
	69/4	0	05	00
	71/1	0	02	80
	173/1	0	01	85
	207/2	0	18	25
	221/2	0	00	10
	452	0	07	00
	519/2	0	05	45
	522	0	02	55
	523	0	01	85
	529	0	02	05
	531/3	0	19	50
2) Endamuru	322	0	02	20
	338/1	0	02	90
	340	0	05	00
	342	0	52	25
	443	0	03	40
	514	0	10	15
3) G. Bhavaram	59	0	03	80
4) Siripuram	6/2	0	02	75
	18	0	07	05
	19/1	0	05	50
	21	0	06	05
	37	0	04	90
	97	0	01	25
	103	0	04	70
	146	0	03	75
	167/2	0	00	70
5) Vemulavada	21	0	03	45
	37	0	04	80
	38	0	01	50
	55	0	01	85

1	2	3	4	5
5) Vemulavada Contd...	62/2	0	05	25
	67	0	00	10
	86	0	07	20
	382/2	0	04	10
	383	0	44	30
	390	0	15	40
6) Vakada	103	0	00	20
	104	0	03	35
	129/1	0	01	80
	129/2	0	02	65
	130/2	0	00	10
7) Karapa	266	0	02	60
	281	0	01	90
	288	0	04	80
	311	0	00	50
	312	0	02	15
	313	0	01	70
	324	0	01	90
8) Aratilakatta	37	0	03	10
	296	0	11	05
	297	0	28	85
	298	0	00	30
	312/1	0	03	35
	313	0	31	80
	319/1	0	05	60
	330	0	07	30
	346	0	22	85
	348	0	00	50
	591	0	01	15
	592/5	0	02	85
	593/1	0	01	75
	627	0	03	40
	664/1	0	02	30

Mandal : Ramachandrapuram District : East Godavari State : Andhra Pradesh

1) Kapavaram	5	0	15	35
	9/1	0	03	60
	34	0	05	00
	35	0	08	10
2) Oduru	99	0	06	60
3) Narsapurapupeta	342/4	0	01	40

1	2	3	4	5
3) Narsapurapupeta Contd..	387	0	05	35
4) Ambikapalle	8	0	05	90
58	10	0	10	45
59	40	0	02	95
5) Chedavaram	18	0	06	10
56	31	0	00	50
57	36	0	05	05
58	30	0	31	60
59	17	0	02	70
60	39	0	08	25
61	00	0	00	20
Mandal : Rayavaram	0	District : East Godavari	State : Andhra Pradesh	
1) Nadurubada	46	0	09	85
58	47/4	0	01	55
59	47/6	0	09	00
60	48/4	0	00	55
61	127/2	0	00	10
62	195	0	03	85
63	197	0	04	40
64	198	0	00	10
65	214	0	00	80
2) Vedurupaka	301/A	0	07	20
58	437/3	0	00	25
3) Lolla	37/1	0	04	85
58	147/3	0	00	75
59	1149	0	06	75
60	187/1	0	00	80
61	187/5	0	02	10
Mandal : Anaparthi	0	District : East Godavari	State : Andhra Pradesh	
1) Mahendravada	301/3	0	00	20
58	301/4	0	00	10
59	302/2	0	03	70
60	371/6	0	03	65
2) Ramavaram	131	0	08	80
58	143	0	05	30
59	146/2	0	01	10
60	148	0	00	10
61	198/2	0	33	90
62	201	0	11	70
3) Polamuru	95/4	0	01	45
58	96/7	0	03	30
59	137/1	0	04	65
60	141	0	06	85
Mandal : Mandapeta	0	District : East Godavari	State : Andhra Pradesh	
1) Artamuru	33/6	0	05	25
58	67/1	0	03	20
59	88	0	11	55
60	89/3	0	07	00
61	1144	0	00	60
	115	0	06	80

1	2	3	4	5
1) Artamuru Contd...	116/4 127 133/3 134/3	0 0 0 0	00 00 01 04	10 75 05 35
2) Tapeswaram	340 352/7	0 0	04 02	25 80
3) Ippenapadu	9 12/1 24 30 123/1 123/5 126/1 126/2 126/3 133/7 133/14 134 135	0 0 0 0 0 0 0 0 0 0 0 0	01 19 06 37 19 01 04 25 23 01 01 07 07	70 95 80 05 10 25 50 60 20 55 10 85 30
4) Palatodu	75 90/3 92/1 92/2	0 0 0 0	05 00 04 01	50 60 70 10
5) Velagatodu	13 26/3 26/5	0 0 0	21 00 00	20 65 95
6) Kesavaram	422/2 423 425/1 439/2 441/3 475/1 476/2 485/1 485/2 485/3 487/3 487/9	0 0 0 0 0 0 0 0 0 0 0 0	05 01 00 03 03 02 00 00 01 02 00 02	00 25 10 75 90 30 10 85 00 45 65 80
Mandal : Samalkot	District : East Godavari			State : Andhra Pradesh
1) Madhavapatnam	148 158	0 0	04 02	25 05
2) Boyanapudi	85/1 95 97/1 99 103	0 0 0 0 0	02 32 13 08 03	10 05 25 75 75
3) Mamilladoddi	10 19 62	0 0 0	16 09 17	65 80 65
	Canal In Survey No.62	0	01	80
4) V.K. Rayapuram	58 64 67/3 180	0 0 0 0	03 19 01 10	45 50 75 55

1	2	3	4	5
5) Bhimavaram	247	0	32	10
	257/2	0	06	95
	267	0	17	15
	276	0	09	40
	314	0	23	30
	352	0	02	65
6) Vettapalem	54	0	03	75
7) Panasapadu	26	0	03	70
	62/2	0	03	70
	65	0	06	30
	79/7	0	00	10
	79/11	0	01	55
	118	0	35	40
	121/6	0	03	45

[F. No. L-14014/17/2006-G.P.]
S.B MANDAL, Under Secy.

नई दिल्ली, 24 नवम्बर, 2006

का. आ. 4476.—केन्द्रीय सरकार ने पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) (जिसे इसमें इसके पश्चात उक्त अधिनियम कहा गया है) की धारा 3 की उपधारा (1) के अधीन जारी की गई भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना संख्या का. आ. 632 तारीख 21 फरवरी, 2005, जो भारत के राजपत्र तारीख 26 फरवरी, 2005, में प्रकाशित रुद्धिपत्र संख्या क.अ. 3577 तारीख 5 अक्टूबर, 2005 द्वारा सुनीदित किया गया था। उस अधिसूचना से रुद्धिपत्र संख्या क.अ. 3577 तारीख 5 अक्टूबर, 2005 द्वारा सुनीदित किया गया था। उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में मध्यप्रदेश राज्य में मांगल्य इंदोर संस्थापन से हरियाणा राज्य में पियाला तथा दिल्ली राज्य राजधानी क्षेत्र में विज्वासन तक पेट्रोलियम उत्पादों के परिवहन के लिए भारत पेट्रोलियम कारपोरेशन लिमिटेड द्वारा एक विस्तार पाइपलाइन बिछाने के प्रयोजन के लिए उपयोग के अधिकार का अर्जन के अपने आशय की घोषणा की थी;

और उक्त राजपत्र अधिसूचना की प्रतियों जनता को तारीख 14 नवम्बर 2005 को उपलब्ध करा दी गई थी;

और सक्षम प्राधिकारी ने, उक्त अधिनियम की धारा 6 की उपधारा (1) के अधीन, केन्द्रीय सरकार को अपनी रिपोर्ट दे दी है;

और केन्द्रीय सरकार ने, उक्त रिपोर्ट पर विचार करने के पश्चात, और यह समाधान हो जाने पर कि उक्त भूमि पाइपलाइन बिछाने के लिये अपेक्षित है, उसमें उपयोग के अधिकार का अर्जन करने का विनिश्चय किया है;

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह घोषणा करती है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में पाइपलाइन बिछाने के लिए उपयोग के अधिकार का अर्जन किया जाता है;

और केन्द्रीय सरकार-उक्त अधिनियम की धारा 6 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निदेश देती है कि यह भूमि में उपयोग का अधिकार इस घोषणा के प्रकाशन की तारीख को केन्द्रीय सरकार में निहित होने वाले तिथि, सभी विलंगमों से मुक्त, भारत पेट्रोलियम कारपोरेशन लिमिटेड में निहित होगा।

अनुसूची

तहसील : सपोटरा		जिला : करौली	राज्य : राजस्थान
क्र०	ग्राम का नाम	सर्वे नंबर	क्षेत्रफल हैक्टेयर में
1	2	3	4
1.	नीमोदा	1/36	0.0072
2.	खेड़ला	342	0.2809

[फा. सं. आर-31015/87/2004-ओ.आर-II]

ए. गोस्वामी, अवर सचिव

New Delhi, the 24th November, 2006

S. O. 4476.— Whereas by a notification of the Government of India in the Ministry of Petroleum and Natural Gas number S.O. No. 632 dated the 21st February, 2005, issued under sub-section (1) of Section 3 of the Petroleum and Mineral Pipelines (Acquisition of Right of user ion Land) Act, 1962 (50 of 1962) (hereinafter referred to as the said Act), published in the Gazette of India dated the 26th February, 2005(which was amended vide number S.O. 3577 dated the 5th October, 2005 published in the Gazette of India dated 8th October, 2005, the Central Government declared its intention to acquire the right of user in the land specified in the Schedule appended to that notification for the purpose of laying an extension pipeline for transportation of Petroleum Products from Manglyा (Indore) terminal in the State of Madhya Pradesh, to Piyala in the State of Haryana and Bijwasan in the NCT of Delhi by Bharat Petroleum Corporation Limited;

And whereas the copies of the said Gazette notification were made available to the public on the 14th November, 2005;

And whereas the competent authority has, under sub-section (1) of section 6 of the said Act, submitted report to the Central Government;

And whereas the Central Government, after considering the said report and on being satisfied that the said land is required for laying the pipeline, has decided to acquire the right of user therein;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 6 of the said Act, the Central Government hereby declares that the right of user in the land, specified in the Schedule , appended to this notification , is hereby acquired for laying the pipeline;

And further, in exercise of the powers conferred by sub-section (4) of section 6 of the said Act, the Central Government hereby directs that the right of user in the said land for laying the pipeline shall, instead of vesting in the Central Government, vest on the date of the publication of this declaration, in Bharat Petroleum Corporation Limited, free from all encumbrances.

SCHEDULE

TEHSIL : SAPOTRA		DISTRICT : KAROULI		STATE : RAJASTHAN			
S.No.	NAME OF VILLAGE	SURVEY NO.	AREA IN HECTARE				
1	2	3	4				
1.	NIMODA	1/36	0.0072				
2.	KHEDLA	342	0.2808				

[F. No. R-31015/87/2004-O.R.-II]

A. GOSWAMI, Under Secy.

नई दिल्ली, 24, नवम्बर, 2006

का. आ. 4477.—केन्द्रीय सरकार को लोकहित में यह आवश्यक प्रतीत होता है कि मध्य प्रदेश में मांगल्या (इन्दौर) संस्थापन से हरयाणा राज्य में पियाला तथा दिल्ली राष्ट्रीय राजधानी क्षेत्र में विज्वासन तक पेट्रोलियम उत्पादों के परिवहन के लिए भारत पेट्रोलियम कार्पोरेशन लिमिटेड द्वारा एक विस्तार पाइपलाइन बिछाई जानी चाहिए;

और केन्द्रीय सरकार को ऐसी पाइपलाइन बिछाने के प्रयोजन के लिए यह आवश्यक प्रतीत होता है कि ऐसी भूमि में, जो इससे उपाबद्ध अनुसूची में वर्णित है, जिसमें उक्त पाइपलाइन बिछाए जाने का प्रस्ताव है, उपयोग के अधिकार का अर्जन किया जाए;

अतः अब, केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम 1962 (1962 का 50), वीधारा 3 की उपधारा (1) द्वारा प्रदत शक्तियों का प्रयोग करते हुए, उस भूमि में उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा करती है;

कोई व्यक्ति, जो उक्त अनुसूची में वर्णित भूमि में हितबद्ध है, उस तारीख से जिसको इस अधिसूचना से युक्त भारत के राजपत्र की प्रतियाँ साधारण जनता को उपलब्ध करा दी जाती है, इक्कीस दिन के भीतर, भूमि के नीचे पाइपलाइन बिछाए जाने के लिये उसमें उपयोग के अधिकार के अर्जन के सम्बन्ध में श्री दीपक नन्दी, सक्षम प्राधिकारी, मुम्बई—मांगल्या पाइपलाइन विस्तार परियोजना, भारत पेट्रोलियम कार्पोरेशन लिमिटेड, 1—सी, बाल मंदिर कॉलोनी, होटल मिंक पैलेस के पास, सदाई माधोपुर — 322001 (राजस्थान) को लिखित रूप में आक्षेप भेज सकेगा।

अनुसूची

तहसील : सपोटरा		जिला : करौली	राज्य : राजस्थान
क्र०	गाम का नाम	सर्वे नंबर	क्षेत्रफल हेक्टेयर में
1	2	3	4
1	खेड़ला	196	0.2000
		192	0.0320
		679	0.1100
		193	0.0320
		678	0.0500
		183	0.0864
		680	0.0792
		720	0.0050
		721	0.1080
		719	0.0400
		718	0.1440
		685	0.2500
		715	0.4900
		713	0.3200
		168	0.1008
		194	0.1640
		164	0.1412
		160	0.2488
		202	0.0432
		203	0.0360
		204	0.0702

1	2	3	4
2.	माडा	81	0.1224
		87	0.2052
		75	0.2200
		46	0.0330
3.	नीमोदा	6	0.3400
		7	0.1900

[फा. सं. आर-31015/87/2004-ओ.आर-II]

ए. गोस्वामी, अवर सचिव

New Delhi, the 24th November, 2006

S. O. 4477.— Whereas it appears to the Central Government that it is necessary in the public interest that for the transportation of petroleum products from Manglya (Indore) terminal in the State of Madhya Pradesh, an extension pipeline to Piyala in the State of Haryana and Bijwasan in the NCT of Delhi should be laid by Bharat Petroleum Corporation Limited;

And whereas it appears to the Central Government that for the purpose of laying such pipeline it is necessary to acquire the right of user in land under which the said pipeline is proposed to be laid and which is described in the Schedule annexed hereto;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Any person, interested in the land described in the said Schedule may within twenty one days from the date on which copies of the Gazette of India containing this notification are made available to the public, object in writing to the acquisition of the right of user therein for laying of the pipeline under the land to Shri Deepak Nandi, Competent Authority, Mumbai-Manglya Pipeline Extension Project, Bharat Petroleum Corporation Limited, 1-C, Bal Mandir Colony, Near Hotel Pink Palace, Sawai Madhopur-322001 (Rajasthan).

SCHEDULE

TEHSIL : SAPOTRA		DISTRICT : KAROULI	STATE : RAJASTHAN
S.No.	NAME OF VILLAGE	SURVEY NO.	AREA IN HECTARE
1	2	3	4
1.	KHEDLA		
		196	0.2000
		192	0.0320
		679	0.1100
		193	0.0320
		678	0.0500
		183	0.0864
		680	0.0792
		720	0.0050
		721	0.1080
		719	0.0400
		718	0.1440
		685	0.2500
		715	0.4900
		713	0.3200
		168	0.1008
		194	0.1640
		164	0.1412
		160	0.2488
		202	0.0432
		203	0.0360
		204	0.0702
2.	MANDA		
		81	0.1224
		87	0.2052
		75	0.2200
		46	0.0330
3.	NIMODA		
		6	0.3400
		7	0.1900

[F. No. R-31015/87/2004-O.R.-II]

A. GOSWAMI, Under Secy.

श्रम एवं रोजगार मंत्रालय
नई दिल्ली, 30 अक्टूबर, 2006

का.आ. 4478.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार पंजाब नैशनल बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण/श्रम न्यायालय, लखनऊ के पंचाट (संदर्भ संख्या 158/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 30-10-2006 को प्राप्त हुआ था।

[सं. एल-12012/87/2002-आई आर (बी-II)]
सी. गंगाधरण, अवर सचिव

MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 30th October, 2006

S.O. 4478.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 158/2002) of the Central Government Industrial-Tribunal-cum-Labour Court, Lucknow, as shown in the Annexure in the Industrial Dispute between the management of Punjab National Bank, and their workmen, received by the Central Government on 30-10-2006.

[No. L-12012/87/2002-IR(B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, LUCKNOW

PRESENT:

SHRIKANT SHUKLA, Presiding Officer

I. D. No. 158/2002

Ref. No. L-12012/87/2002-IR (B-II) Dt. 6-9-2002

Between :

Ramesh Kumar Chaurasiya,
Village Rjla (Lalji Shukla Ka Tola)
P.O. Deoria Khas,
Deoria (U. P.)

And

The Regional Manager,
Punjab National Bank,
Regional Office, Opp. Goswami
Tulsi Das Inter College, Alahadapur,
Gorakhpur.

AWARD

The Government of India, Ministry of Labour, New Delhi referred the following dispute No. L-12012/87/2002-IR (B-II) dated 6-9-2002 for adjudication to the Presiding Officer, CGIT-cum-Labour Court, Lucknow.

"Whether the action of the management of Punjab National Bank in terminating the services of

Sri Ramesh Kumar Chaurasiya w.e.f. 4-12-2001 is legal and justified? If not, what relief he is entitled for?"

Worker Ramesh Kumar Chaurasiya's (who shall hereinafter be called as worker) case in brief is that he was appointed as temporary peon at Civil Lines Branch Deoria of Punjab National Bank (which shall hereinafter called as the bank) on 1-1-97. Besides the peon's work, worker was also required to perform clerical duties as well. Worker was initially paid salary at the rate of Rs. 10 per day which was gradually raised to Rs. 30 per day including Sundays and Holidays. These payments were made periodically at time, made on monthly basis at times after of 2,4,6 days. Worker though worked whole time but was not paid prescribed salary the bank thus indulged in unfair labour practice. Worker was in need of money, Bank Manager granted him Advance Rs. 6500 under DRI scheme. Worker requested the Bank authorities several times to regularise the service, finding no response he (worker) filed writ petition No. 39336 of 2001 on 24-11-2001 before Hon'ble High Court, Allahabad for relief of regularisation, notice in which connection was served upon the Bank. On receipt of the notice the Bank terminated the services of the worker at the close of business on 4-12-2001. Hon'ble High Court dismissed the writ petition of the worker on the ground of alternative remedy under I.D. Ac., 1947 being available to the worker. Worker thus worked continuously from 1-1-97 until 4-12-2001 when his services were terminated by the bank, vindictively, without assigning any reason, notice, notice pay retrenchment compensation. Worker has Claimed that he worked for more than 240 days in a calendar year and in fact for the whole year, worker has therefore prayed that the Court may hold that the action of the management of the bank in terminating the services of the worker w.e.f. 4-12-2001 is illegal and unjustified. Worker has also prayed to order reinstatement with full back wages.

Denying the claim of the worker authorised signatory of the bank management has filed written statement. It is alleged that there was no relationship of employee & employer between the bank and the worker & therefore what has been submitted by the worker can not be termed as Industrial Dispute. However, it is submitted that Sri Chaurasiya was engaged by Civil Line Deoria branch of the bank for few days intermittently during the period 1997 to 2001 to do some casual labour work like filling up of water etc. for which he was paid necessary charges at the agreed rates. It is further submitted that even for this casual work, he was not engaged for 90 or more days during the period in any 3 consecutive months. It is further submitted that Sri Chaurasiya was doing Pan, Cigarette shop outside the branch premises for which he took loan from the branch for Rs. 6500 under DRI scheme. Sri Chaurasiya and an access to the civil line branch of the bank, he had unauthorisedly without permission of the competent authority made certain entries in records of the branch. The recruitment in the subordinate cadre is done as per rules of the bank by placing

an indent with the concerned employment exchange to forward the names of the eligible candidates on rolled with them and after due process prescribed by the bank for recruitment, the competent authority recruits a person in the subordinate cadre. The competent authority is the Chief Manager of the Zone. The work of casual nature for which Sri Chaurasiya was engaged and the unauthorised work performed by him taking undue advantage of his access to the records of the bank would not create any right in favour of worker to make any claim. The management of the Bank has categorically denied that he was appointed as temporary peon. It is also denied that he performed the duties of the peon. It is further denied that Sri Chaurasiya was ever required to perform clerical duties. It is also denied that the bank was indulged in any unfair labour practice. In the branch Inspection report 6-12-2000 it has been mentioned that Sri Chaurasiya was having saving fund account was running a pan/cigarette shop outside the bank and was not a member of staff though he had unauthorised access to the various documents of the bank. Filing of writ petition by the worker in the Hon'ble High Court & its dismissal is not disputed by the management. Regarding the alleged termination after notice of writ petition it is submitted that Sri Chaurasiya was not appointed in any capacity therefore no question of his termination arises as alleged or otherwise by the worker. It is alleged that Sri Chaurasiya used to be engaged for casual work for specific period only & the said engagement used to come to an end immediately thereafter.

Worker has filed rejoinder wherein the worker has denied allegations of the bank management and has reiterated the claims of claim statement. It is stated that the hollowness of the bank's contention is exposed from the facts that loan under DRI scheme can be sanctioned to only persons belonging to Schedule Caste & Schedule Tribes, but the worker does not fall in that category. It is also submitted that it is for the bank to follow its recruitment procedures or not the worker has nothing to do with the same. The contention about the competent authority to make appointment is not applicable in cases covered under Section 25 F of I. D. Act.

Worker has not filed any document with the statement of claim.

Opposite party has filed following photo copies of the documents :

1. Photo copy of Local & out ward despatch register dt. 7-4-99 to 20-9-99.
2. Register of draft issued (photo copies)

Worker has examined himself and the bank has examined an officer of the bank Sri K. N. Misra.

Parties have filed written arguments.

Perused written argument, evidence on record and pleadings of the parties.

The bank management has file rules which have prescribed qualification, age, etc. in respect of appointment as peon. April, 1972 circular of staff controller prescribed among other things that a person who is qualified to be appointed as peon should have passed middle examination & have not studied beyond that. It also provides that when a vacancy arises in the subordinate cadre nearest employment exchange station & address be notified & the, candidates sponsored by them should be screened & thereafter interview for selection. According to the Chief of Personnel of the Bank circular dt. 18-4-87 age limit has been prescribed i.e. 18 to 26. The circular of 4-5-88 prescribed that the appointing authority for clerical & subordinate cadre in the state shall be Chief Manager/ Asstt. Zonal Manager.

JT 1996 (10SC) 329 Union of India Vs Bishambhar Dutt where the appointment were not made to regular post after selection there is no question of regularisation of service.

2001-II-LLJ 780 between Delhi State Industrial Dev. Corporation & J. K. Thakur, Hon'ble Supreme Court has held that Respondent being a daily wager had no right if automatic regularisation despite his engagement for seven years and his having appeared for test/interview.

It is settled law that where daily wagers were not selected by a process through which regular employees were recruited, the principle of equal pay for equal work would not apply. It is also well settled that an illegal appointed can not be legalised by taking recourse to regularisation. The constitutional scheme which the country has adopted does not contemplate any back door appointment. A daily wager in absence of a statutory provision in this behalf would not be entitled to regularisation.

Management of the bank has filed application of Ramesh Kr. Chaurasiya for loan dt. 11-3-99 for an amount of Rs. 6500 for purchase of stocks in the trade declaring this his business address is near Punjab National Bank, Civil Lines Deoria since 1991 and also declaring that he is unemployed. The Manager of the bank gave his confidential report. Management also produced one photo copy of the agreement which provides an interest of Rs. 4.25%. Management also produced photo copies of Residential certificate and affidavit wherein Ramesh Kumar Chaurasiya has stated that his shop is located near Punjab National Bank Branch Civil Lines.

The management of the bank has also filed the circular dt. 21-1-97 of Dy. General Manager (Personnel) of the bank to the effect that the temporary appointment of subordinate cadre stands stopped. In the said circular it is specifically provided that the appointment on casual basis is also strictly prohibited and those violating will render themselves liable to disciplinary Act.

Worker has not filed any appointment letter that he was appointed as temporary peon although he has alleged in para 2 and 3 of the statement of claim as under :

“That the Applicant—Ramesh Kumar Chaurasiya is a young man of about 33 years of age and his educational qualification are High School in second division.

“That in search of employment the Applicant approached the Manager, Punjab National Bank (hereinafter referred to as the bank) Civil Lines branch, Deoria. The Manager of that branch after enquiring about the educational qualification and the antecedent of the Applicant appointed the Applicant as Temporary Peon at Civil, Lines, Deoria branch as from 1-1-97.

It is further stated that he was paid salary on daily wage basis at the rate of Rs. 10 per day which was gradually raised to Rs. 30 per day.

In the cross examination he has admitted that he was not given any appointment letter and his name was not registered in the Employment Exchange. Bank also did not demand the bio-data. He has further stated that he was appointed on the post of peon by Branch Manager Josephs Gomes. He has also admitted that he was not provided wage slip. He further states that he does not know as to who is the appointing authority of peon. He has also admitted that there were already 4 peons who were getting monthly salary. It is also admitted fact that there was already 10 clerks in this bank. He has also admitted that he has already passed High School in the year 1985. In the cross examination on 14-6-2005 he has admitted his age to be 37. If calculation is made his age shall be near about 29 years in 1997.

From above it is proved that he was disqualified for appointment on the post of peon in the year 1997.

In absence of any appointment letter he can not be treated as to have been appointed as temporary peon as alleged by him. He can utmost be a casual labour engaged on agreed labour charges.

It is strange that worker has signed every where as “Ramesh” on the paper and order sheet of the court. No where he has signed as “Ramesh Kumar Chaurasiya”. However the loan documents the copy of which have been filed by the bank worker’s name and signature is “Ramesh Chandra Chaurasiya”. This is very significant. In the circumstances it is difficult to ascertain the actual name of the worker whether he is Ramesh, Ramesh Chandra, Ramesh Kumar Chaurasiya or Ramesh Chandra Chaurasiya. However the identity has not been disputed by the representative of the opposite party.

Besides Sri H. N. Misra, the management of the bank also examined Sri Suresh Chandra Pandey who has stated that the services of the worker were taken for filling water etc. for which he was properly paid. Sri Hriday Narayan

Misra has also stated that Branch Manager sometime engaged the worker as casual labour, he paid him accordingly.

Sri Hriday Narayan Misra has admitted in his cross examination that he sometime saw him doing the despatch work. Mr. Misra has also admitted that on 2-8-99, 16-8-99 and 21-9-99 he signed the cash book which was written by the worker.

The statement on the record goes to prove that the worker was never appointed as temporary peon as alleged by the worker. The same is false. However, it is made out that he was engaged by the branch manager as casual labour on daily wage basis.

Worker has admitted following facts on 11-8-2003:

1. He took loan of Rs. 6500 under DRI scheme.
2. He never signed on the attendance register.
3. He was not paid wages through salary register, instead he was paid through vouchers.
4. The Pan shop was run by his uncle and it was for that shop he took loan. Shop is at a distance of 6-7 metres from bank. Loan documents was signed by him. Further the worker has stated following facts on 14-6-2005.
5. Bank employees were getting wage slip whereas he was not given such wage slip.
6. He gave the application for loan on 11-3-99 which carried on interest of 4.25%.
7. He was getting daily wages.
8. There was no publication of vacancy for appointment of peon.
9. He has no record about his service in the bank.
10. No service book was prepared.

From the aforesaid facts it is proved that the worker Ramesh Kumar was not regularly appointed peon. It is made out that his status was that of a daily wager. On the other hand Sri H. N. Misra, the officer of the bank has proved that worker had a shop of PAN near the bank; therefore he often came to the bank for providing PAN & took loan of Rs. 6500 under DRI scheme Sri Misra categorically stated that the employee of the bank can not take loan under DRI scheme. The object of taking the loan was to run the shop. He has also stated that Sri Chaurasia gave the application on the prescribed form and also gave an undertaking & affidavit. Sri Misra has proved that the then Branch Manager reported that the person applying for the loan is running the shop since 1999 and he sanctioned loan on 11-3-99. Loan amount was deposited in the Bank Account No. 5697 of Sri Ramesh Kumar and he withdrew the loan amount. Bank also filed the purchase receipt of goods for running the business.

The management has filled the photo copies of following documents alongwith the written argument;

1. Application of the worker for obtaining loan where is the Ramesh has declared him self as proprietor of the shop and has 8 years experience. Further declaring that he is educated and unemployed. There is an endorsement of sanctioning authority that borrower is running the shop since 1991.
2. Loan agreement.
3. Certificate of residence.
4. Affidavit.

The above facts supported the statement of Sri H.N. Misra, the officer of the Bank.

On the consideration of entire evidence on record it is proved that the worker obtained the loan on concessional interest declaring himself to be educated-unemployed youth. Therefore worker is not trustworthy when he knowingly gives a false statement that he was a peon of the Bank. The shop is run by his uncle. The statement of the worker is false.

On the other hand it is also proved that the worker was hand-in-gloves with the staff of the bank employees as he was frequently visiting the bank otherwise he could not have opportunity to the clerical nature of work in the Bank as there were about 10 clerks and 4 peons. It is a false argument on behalf of the worker that he perform the full hours duty in the Bank as he could not do so as he was running the PAN shop.

It is noteworthy that the worker moved an application C-14 requesting for production of documents. List included only 4 vouchers dt. 2-1-2001 for Rs. 550, 31-3-2001 for Rs. 225, 1-5-2001 for Rs. 750 and voucher dt. 31-5-2001 for Rs. 930. It is pertinent to mention here that the worker has stated that he was paid through vouchers. In case it is taken to be true that he was paid wages through the above vouchers then it could be said that he was paid for period December 2000, Feb., 2001, April 2001, whereas the worker was to prove that he had worked 240 days in a calendar year preceding his date of termination and the worker has failed to prove by any evidence. Worker's own testimony is not reliable.

From the discussions above I come to the conclusion that the worker was only casual daily rated workman and he has failed to prove that he continuously worked for 240 days preceding his date of termination. There is no retrenchment as defined in Industrial Dispute Act. In case the worker has not been engaged, further there is no illegality. Issue is therefore, decided against the worker, the worker is not entitled to any relief.

Lucknow SHRIKANT SHUKLA, Presiding Officer
23-10-2006

नई दिल्ली, 30 अक्टूबर, 2006

का.आ. 4479.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सिंडिकेट बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/प्रम न्यायालय नं.-2, नई दिल्ली के पंचाट (संदर्भ संख्या 120/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 30-10-2006 को प्राप्त हुआ था।

[सं. एल-12012/67/2003-आई आर (बी-II)]

सौ. गंगाधरण, अवर सचिव

New Delhi, the 30th October, 2006

S.O. 4479.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 120/2003) of the Central Government Industrial Tribunal-cum-Labour Court, New Delhi No. II as shown in the Annexure in the Industrial Dispute between the management of Syndicate Bank, and their workman, which was received by the Central Government on 30-10-2006.

[No. L-12012/67/2003-IR(B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE

BEFORE THE PRESIDING OFFICER : CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, NEW DELHI

ID. No. 120/2003

Presiding Officer : R. N. RAI

IN THE MATTER OF:

Shri Raman Kishore Gautam,
S/o. Shri Lalit K. Gautam,
R/o. V.H. 24 1st Palapuram Meerut, Janpad,
Meerut (UP.)

Versus

The Dy. General Manager,
Syndicate Bank,
Zonal Office Meerut Wing, Bhawanipuram University,
Meerut (UP).

AWARD

The Ministry of Labour by its letter No. L-12012/67/2003-IR(B-II) Central Government Dt. 14-8-2003 has referred the following point for adjudication.

The point runs as hereunder:—

“Whether the action of the management of Syndicate Bank in dismissing Shri Raman Kishore Gautam, S/o. Shri Lalit Kishore Gautam. Clerk from services w.e.f 30th September, 1999 is legal and justified? If not, what relief is the workman concerned entitled to?”

The workman applicant has filed claim statement. In the claim statement it has been stated that the workman was employed in Main Branch Meerut in Syndicate Bank. He was posted on MAY I HELP YOU COUNTER and customer Shri Vikash Rajvanshi came to the counter of the workman for opening a current account and he requested him to fill up the forms. The workman filled up the forms and got his account opened. He used to fill up the amount in the cheques and the customer Shri Vikash Rajvanshi signed the same.

It has been further stated that he was transferred from Meerut City main Branch to Partapur Sakha.

The management illegally against the BPS issued a charge sheet dated 30-7-1997 without any justification. No documents were annexed with the chargesheet.

That an Inquiry was initiated against the workman. The principles of natural justice were not followed. He was not given opportunity to cross-examine the witnesses. The entire documents were not made available to him. The Inquiry Officer found the charges proved without evidence.

That the Inquiry Officer found the charges proved. The disciplinary authority proposed the punishment of dismissal from service of the bank without any notice. The workman replied to the show cause notice and mentioned that the findings of the Inquiry Officer are perverse. He was not involved in any misappropriation or embezzlement. He is innocent still the disciplinary authority imposed on him the punishment of dismissal from services of the bank without notice. The workman made an appeal that too was rejected.

That it was the duty of the workman to help the persons who came to MAY I HELP YOU COUNTER and he helped them. He filled up account opening forms. Account was opened after complying all the formalities.

That the principles of natural justice were not followed in the conduct of inquiry proceedings. There was no evidence to find the workman guilty of the charges framed against him. Handwriting expert was not examined.

The management has filed written statement. In the written statement it has been stated that the present reference has been made in routine and mechanical manner without application of mind, therefore, the present reference is liable to be rejected.

That since the workman has concealed true and material facts from Hon'ble Court, the management hereby state the facts and circumstances of the case.

That the workman was dismissed from the services of the bank for committing the following gross misconducts :

1. Committing gross misconduct of "Engaging in business outside the scope of the duties" vide Clause No.19.5 of the BPS.

2. Committing gross misconduct of "speculating in stocks, shares and securities" vide Clause No.19.5 and
3. Committing gross misconduct of "doing acts prejudicial to the interest of bank" vide Clause No.19.5 of BPS.

That the workman was issued with the charge sheet dated 30-7-1997 in terms of the provisions of service conditions for workman under BPS for the reasons that while functioning as a Clerk at Meerut City Branch between 24-6-1991 and 16-9-1997, on 8-12-1993 a Current Account No. 3151 was opened in the name of Shri Vikash Rajvanshi and thereafter operated briskly. In the account opening form the occupation of the depositor was mentioned as business. On the same day an application was submitted to the branch requesting for issuance of cheques book of 100 leaves and however a cheque book containing 25 leaves was issued on 9th December, 1993. The account opening form, the specimen signature card and application requesting for the cheque book were in the handwriting of workman and bearing the signatures of the depositor as "V. Raj". During the period between 8th December, 1993 and 2nd June, 1995 the account received cash credits on 42 occasions amounting aggregating to Rs. 8,77,912/- on 9 occasions through clearing for amounts aggregating to Rs. 34,226/- and on 8 occasions through transfer for amounts aggregating to Rs. 2,92,950/- and aggregating to Rs. 12,05,088/- in all. During the same period 334 cheques for amount aggregating to Rs. 12,04,848/- were drawn and paid in the account. The cheques were written by him and were purportedly signed by the depositor as "V. Raj". The cheques appear to have been issued in investments in shares. It was revealed that signatures of the depositor as "V. Raj" appearing in the account opening form, specimen signature card, application of issuing cheque book and all the cheque drawn on the account were made by the workman indicating that he opened the account and operated a Benami current account for the purpose of doing business and engaging in speculation of stocks, shares, securities etc.

That the workman failed to submit any reply to the charge sheet and the matter was departmentally inquired into by appointing an Inquiry Officer. The workman participated in the inquiry along with his defence representative. All fair and reasonable opportunities were provided to the workman during the inquiry. The list of witnesses and copies of documents were made available to him at the beginning of the inquiry. The Inquiry report dated 30th June, 1999 was submitted by the Inquiry Officer stating that all the allegations contained in the charge sheet against the workman are proved conclusively and a copy of the inquiry report was duly forwarded to him for making submissions. The defence representative of the workman made his submissions vide letter dated 9-8-1999 on the report. The Disciplinary Authority had gone through the

report as well as the submissions of the workman and was convinced that the workman was guilty of the charges levelled against him. Considering the seriousness of the misconduct committed by the workman and proved in the inquiry, Disciplinary Authority proposed the punishment of dismissal from the services of the bank vide letter dated 25th August, 1999. Personal hearing was also given to the workman on 21-9-1999. The Disciplinary Authority had gone through all the records of the case and was satisfied that the charges levelled against the workman were duly established in inquiry. The punishment imposed upon the workman was not disproportionate to the gravity of the misconduct committed by him and accordingly the punishment of dismissal from the services of the bank with immediate effect was awarded to the workman vide order dated 30-9-1999.

The workman preferred an appeal to the Appellate Authority the same was also dismissed after giving him a personal hearing as there was no extenuating factors brought in for the consideration of the appellate authority by the workman and there was sufficient evidence on record to sustain the charges for which the workman was found guilty and there was no merit in the submissions made by the workman during the personal hearing, the punishment awarded was also not disproportionate to the gravity of the misconduct committed by the workman and therefore the punishment ordered by the disciplinary authority was confirmed.

It is denied that the workman filed the account opening form on the request of the alleged customer. It is also denied that the workman at the request of the alleged customers written the application for issuance of the cheque books as alleged. It is denied that the workman was filling the cheques at the request of the alleged customer. It is submitted that the workman is trying to cook up a false and fabricated story. It was established that the said current account in the name of Vikash Rajvanshi was a Benami account which was opened and operated by the workman for the purpose of doing business and engaging speculation of stocks, shares and securities etc. the charges levelled against the workman were also established in the departmental inquiry. It is further submitted that a large number of cheques presented in clearing through other banks in the above said account were also found to be in the handwriting of the workman and the same was also confirmed by the GEQB: Simla in its report. Therefore the allegations of the workman are false and fabricated.

It is denied that on account of any wrong information or conspiracy the charge sheet was issued on the basis of false and frivolous allegations as alleged by the workman. It is also denied that no investigation was made by the bank before issuing the charge sheet. The charge sheet issued to the workman was specific and contained full details of the charges levelled against the workman. The workman was provided with certified photocopies of all

the documents relied upon by the management and the name of the management witnesses were also informed to the workman in writing during the inquiry. The allegations levelled in this para are false and are afterthought; the workman has duly confirmed having received the certified copies of the document relied upon by the management. It is specifically denied that there was any kind of violation of the principles of natural justice as alleged.

It is denied that the workman submitted any reply to the charge sheet. The bank in view of the failure of the part of the workman to submit the reply the charge sheet appointed Inquiry Officer to proceed further in the matter as per the provisions of the BPS in accordance with the principles of natural justice by giving fair and reasonable opportunity to the workman. It is submitted that the management is well within its right to appoint the employees of the bank to act as inquiry officer, the same is duly permissible under the rules and there is no violation of principles of natural justice in this regard as alleged.

It is submitted that during the inquiry proceedings it was informed that witness No. 2 could not attend the inquiry and hence the management closed its evidence. Thereafter the workman was directed to lead its evidence, but the defence representative stated that they do not want to produce any evidence nor the workman was produced as a witness therefore the inquiry was closed. It is specifically denied that the workman could not produce its evidence for the reasons stated in this para. It is denied that there was any violation of principles of natural justice as alleged. From the inquiry proceedings it is apparent that the workman was given opportunity to lead its evidence but the workman choose to close its evidence and never made any request in this regard therefore the allegations made in this para are false and frivolous.

It is submitted that since the workman has not given any reply to the charge sheet therefore the question of the management not looking into the reply to the charge sheet by the workman does not arise at all. It is denied that the inquiry was not fair and proper or the inquiry report was not as per the evidence and material on record. It is denied that there was any defect in the inquiry as alleged. The relevant documents as demanded by the workman were duly supplied. It is denied that the disciplinary authority did not examine the records of the inquiry, material place on record and the evidence produced in the inquiry as alleged. It is denied that there was any sort of violation of the service conditions or the provisions of the BPS while conducting the inquiry. It is submitted that the workman was given full opportunity to defend himself the provisions of BPS were duly followed and principles of natural justice were also complied with. It is submitted that the disciplinary authority was convinced that the workman was guilty of the charges levelled against him. After considering the seriousness of acts of misconduct, the disciplinary authority proposed the punishment of dismissal from the

services of the bank and show cause notice dated 25th August, 1999 was issued to the workman and personal hearing was given to the workman on the proposed punishment. The allegations levelled by the workman are afterthought and baseless.

It is denied that the workman was dismissed without following the procedure as alleged. It is also denied that the disciplinary authority did not consider the record of the inquiry before passing the order. It is submitted that the disciplinary authority carefully examined the entire record and the submissions made by the workman. Since there was sufficient evidence to sustain the charges against the workman and the charges levelled by the management were duly established in the inquiry therefore the punishment order was rightly passed against the workman.

It is denied that the workman was dismissed illegally and unlawfully as alleged. It is submitted that the workman was dismissed after conducting departmental inquiry and full opportunity was given to the workman to defend himself and the provisions of BPS as well as principles of natural justice were duly followed. The disciplinary authority was convinced that the workman was guilty of the charges levelled against him. That after considering the seriousness of the acts of misconduct the punishment of dismissal from the services of the bank was awarded to the workman vide proceedings dated 30th September, 1999.

It is denied that the appellate authority dismissed the appeal preferred by the workman without examining the records of the inquiry and of the disciplinary authority. It is submitted that the appellate authority gave personal hearing to the workman and considered the entire records before passing the order. Since there was sufficient evidence on record for which the workman was held guilty, there were no merit in the submissions made by the workman and there was no extenuating factor warranting for reconsideration of the decision of the disciplinary authority. The appellate authority also found that punishment awarded by the disciplinary authority was not disproportionate to the gravity of the misconduct therefore the punishment order was confirmed and the appeal of the workman was dismissed.

It is denied that the allegations levelled in this para are false and afterthought. It is denied that in the inquiry conducted by the management relating to the charge sheet issued to the workman through oral and documentary evidence it was established that workman himself opened and operated a benami account for the purpose of doing business and engaging in speculation of stocks, shares and securities etc. Now at this stage the workman is trying to cook up a false and frivolous story. The allegations levelled by the workman are baseless as it was established in the inquiry that workman was himself doing the business and was engaged in the speculation of stocks, shares and securities.

The allegations levelled by the workman are false. The punishment awarded to the workman was in

proportionate to the gravity of the misconduct committed by him and charges levelled against the workman were duly established in the inquiry. The principles of natural justice and provisions of BPS were duly followed. The present claim petition is misconceived and the workman is not entitled to the relief claim.

The workman applicant has filed rejoinder. In his rejoinder he has reiterated the averments of his claim statement and has denied most of the paras of the written statement. The management has also denied most of the paras of the claim statement.

Evidence of both the parties has been taken.

Heard arguments from both the sides and perused the papers on the record.

Issue regarding fairness of the inquiry was decided on 13-07-05. The inquiry was found vitiated as the handwriting expert was not examined. The management was afforded opportunity to examine handwriting expert and he has been examined.

It was submitted from the side of the workman that he was posted at MAY I HELP YOU COUNTER. One Mr. Vikas Rajbanshi came to him for opening of Current Account. He filled up the account opening form and Mr. Vikas Rajbanshi opened the Current Account.

It has been admitted by the workman that he has filled up all the documents relating to every transactions of this Current Account. He has not signed the cheques and the slips for obtaining cheque books.

It was submitted from the side of the management that he was not all along posted on MAY I HELP YOU COUNTER. There are sufficient documents to indicate that he was posted on this counter for some period but other officials have been posted on MAY I HELP YOU COUNTER. The handwriting expert has been examined. He is a Central Government expert. I have perused his evidence and compared the disputed and admitted handwriting. The handwriting expert is reliable and the disputed signatures on cheques and the admitted specimen signature are of one and the same person.

It was submitted by the workman that the officers as well as officials persuaded the workman to get an account opened and some of the officials and the officers who have signed the account opening form and passed the cheques for withdrawal also were involved in speculation of stocks and share. The officers ensured that no action will be taken and the transaction and the Current Account went on for 2 years. Thereafter account was closed and due to animosity some of the officers disclosed the opening of the secret account and this workman has been made victim of their conspiracy.

It becomes quite obvious that Current Account cannot be opened without connivance and collusion of the Passing Officers. It has been admitted by MW 1 that

on the account opening form his signature appears at the bottom at the second page. He has also admitted that he has signed the account opening form as Assistant Manager. It is admitted that he did not see the proprietor of M/s. Fair Investment visiting the branch during his tenure. He has also admitted that the authorized signatory who signed on behalf of the bank is Mr. Sindhe. The person who has signed the account opening form as Sub-Manager is Mr. Sadanand. It is admitted that the account opening form was placed before both together. From these admissions it becomes quite obvious that Mr. Sindhe the authorized signatory Mr. Sadanand, Sub Manager and MW1 Shri V.R. Sharma signed the account opening form knowing fully well that the Signature was forged. So they were in collusion with the workman. Had they not been in collusion the Current Account could not have been opened.

It is held that signature on card, application of issuing chequebook and all the cheques drawn are of the workman. There is no violation of the principles of natural justice. Fair and reasonable opportunity has been given to the workman during enquiry proceedings. The disciplinary authority and the appellate authority have acted fairly. At least the 3 officers mentioned above indulged in the speculation of stocks, shares and securities.

It was submitted from the side of the management that the workman requested them to open the account and they put their signatures on the account opening form. This argument is not tenable as the officers were duty bound to get the signature of the account holder and the introducer before them. They also took advantage of share marketing business. They were in collusion with the workman and an inquiry should have been held against them also.

It was submitted from the side of the workman that he fell a victim to the conspiracy of the officers. The officers indulged in the business of shares marketing. He put his signature on the account opening form and on the cheques in persuasion of the above officers of the bank. He has only been punished and the officers of the bank have been let off. In such circumstances it was necessary for the DA to charge sheet all who were involved in the opening of the account. The workman alone not have been picked and chosen.

MW1 has categorically admitted that account No.3151 was opened as per the rules of the bank and he has admitted that he did not receive any complaint during the tenure.

It may be that a poor official may have acted under the pressure and persuasion of his officers in the facts and circumstances of the case. He should not have alone been punished. All the 3 officers who signed the account opening form in the business of Mr. Vikas Rajbanshi and the introducer should have been taken to task. They cannot be said to have forged the documents but they have abetted

and supported and concealed forgery. So they have so committed misconduct and they should have also been punished.

From perusal of the records it is established that the workman has forged the signature of Mr. Vikas Rajbanshi and all the cheques have been forged by him. But it also becomes established that officers of the bank were also involved in this unfair transaction but they have got themselves scot free. It was submitted from the side of the workman that these officers have issued so many appreciation letters to the workman. The appreciation letters are on the record. These letters also suggest that the officers were very much pleased with the working of the workman as they have also shared the profit of share etc. The conduct of the workman has been good all along.

It was further submitted that the punishment of dismissal without notice is harsh and it is shocking to the conscience of the court. It is disproportionate. The workman has fallen innocent victim to the conspiracy of the officers and other employees who are involved in share marketing transactions. This workman should not be given such a harsh punishment. In the facts and circumstances of the case punishment is disproportionate. It is true that persons like workman should not be continued in the bank as this workman held the post of trust but still he should not be punished harshly and the officers conniving and colluding with others should be let off. In the facts and circumstances of the case voluntary retirement would be appropriate punishment.

The reference is replied thus:

The action of the management of Syndicate Bank in dismissing Shri Raman Kishore Gautam, S/o. Shri Lalit Kishore Gautam, Clerk from services w.e.f. 30th September, 1999 is neither absolutely legal and nor absolutely justified. The workman should be given VRS and he should be paid the benefits of VRS if any within two months from publication of the award.

Award is given accordingly.

Date : 12-10-2006. R. N. RAI, Presiding Officer

नई दिल्ली, 30 अक्टूबर, 2006

का. आ. 4480.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ई. सी. एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण/श्रम न्यायालय आसनसोल के पंचाट (संदर्भ संख्या 13/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 30-10-2006 को प्राप्त हुआ था।

[सं. एल-22012/100/2004-आई आर (सीएम-II)]
अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 30th October, 2006

S.O. 4480.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 13/2005) of the Central Government Industrial Tribunal/Labour Court, Asansol as shown in the Annexure in the Industrial Dispute between the management of M/s. Eastern Coalfields Limited, and their workman, which was received by the Central Government on 30-10-2006.

[No. L-22012/100/2004-IR(CM-II)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
ASANSOL**

PRESENT: Sri Md. Sarfaraz Khan, Presiding Officer
Reference No. 13 of 2005

Parties : The Agent, Nimcha Colliery of E.C.L
Vrs.

The General Secretary, Koyala Mazdoor
Congress, Asansol, Burdwan.

Representatives :

For the Management : None.

For the Union (Workman) : Sri S. K. Pandey, General
Secretary, Koyala Mazdoor
Congress, Asansol, Burdwan.

Industry : Coal

State : West Bengal

Dated the 28-4-2006.

AWARD

In exercise of powers conferred by clause (d) of Sub-section(1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), Govt. of India through the Ministry of Labour vide its letter No. L-22012/100/2004-IR(CM-II) dated 7-3-2005 has been pleased to refer the following dispute for adjudication by this Tribunal.

SCHEDULE

“Whether the action of the management of Nimcha Colliery of Eastern Coalfields Limited in dismissing Sh. Ramjee Kumhar from service w.e.f. 30-5-1995 is legal and justified? If not to what relief is the workman entitled ?”

After having received the Order No. L-22012/100/2004-IR (CM-II) dated 07-03-2005 from the Govt. of India, Ministry of Labour, New Delhi, a reference case No. 13 of 2005 was registered on 12-04-2005 and accordingly an order was passed to that extent to issue notices through the registered post to the respective parties directing them to appear in the court on the date so fixed and file their written

statement along with the documents and a list of witnesses in support of their claims. Pursuant to the said order notices were issued to the parties concerned. Shri S.K.Pandey, General Secretary of the union appeared on behalf of the workman and filed his written statement along with Xerox copies of documents in support of his claim.

On the other hand in spite of the receipt of the notices and grant of several adjournments no body turned up to represent the management. It is clear from the record the notice was legally and properly personally served upon the management on 2-5-05 and thereafter several adjournments were granted for the appearance of the management side but to no effect. Ultimately the case was fixed for ex-parte hearing and the ex-parte hearing was taken up and the award was reserved for order.

In brief compass the case of the workman as set forth in the statement of claim is that the delinquent workman Sh. Ramjee Kumhar was the permanent employee as Under ground Loader of the company at Nimcha Colliery of Ms. Eastern Coalfields Limited.

The main case of the union is that the delinquent workman absented from his duty w.e.f. 28-8-1993 to 25-3-1994 due to his sickness which was beyond his control. The workman concerned after having been declared fit, reported to the management but he was not allowed to resume his duty and was served with the charge sheet vide C.S. No. NC/CS/PERS/94/493 dated 30-3-1994. It is further stated that the workman concerned replied to the charge-sheet and appeared before the Enquiry Officer along with medical certificate for the perusal of the Enquiry Officer. But surprisingly the workman was dismissed from the services of the company vide dismissal order No. SAT/GM/PERS/C/95/292(P) dated 30-05-1995 by the Area management arbitrarily without giving him any proper opportunity to defend himself during enquiry proceeding. The dismissal of the delinquent worker has been claimed to be illegal and unjustified and accordingly a relief has been sought to reinstate the workman concerned in the service with the payment of full back wages with all the consequential benefits.

The Xerox copy of charge-sheet, enquiry proceeding along with the enquiry report and the order of dismissal has been also filed on behalf of the workman concerned.

From perusal of the record and the charge-sheet itself it is clear that the delinquent workman was charge-sheeted for an unauthorized absence w.e.f. 28-8-1993 to 25-3-1994 which is clearly admitted by the delinquent workman himself in his written statement and in his statement before the Enquiry Officer and in the explanation to the charge-sheet. It is also admitted that the workman concerned did not send any information to the authority concerned about his absence due to sickness which was beyond his control. So the unauthorized absence can not be said to be

deliberated rather it was under the compelling circumstance and the reasons of the absence appears to be satisfactory. It is a simple case of unauthorized absence only which can't be said to be gross misconduct. Even according to the provision of the Model Standing Order applicable to the establishment, the extreme penalty of dismissal can't be imposed to the delinquent workman in such type of case. Besides this no second show cause notice had ever been issued to the workman concerned before passing the order of dismissal against him which is itself a serious and deliberate violation of the mandate of the Apex Court and the principles of natural justice. Such a plain and simple case of unauthorized absence under the compelling circumstance should have been dealt with by taking a lenient view by the management.

In view of the above facts, circumstance and the discussion made I am satisfied to hold that the penalty of dismissal imposed by the employer is not just, proper and commensurate with the nature and gravity of the misconduct alleged against the workman concerned and as such the impugned order of the punishment of dismissal is hereby set aside and the workman concerned is directed to be reinstated with the continuity of service along with 50% of the back wages payable to the workman concerned. As such it is hereby

ORDERED

that let an "Ex-parte Award" be and the same is passed. Send the copies of the award to the Ministry of Labour, Govt. of India, New Delhi for information and needful. The reference is accordingly disposed of.

Md. SARFARAZ KHAN, Presiding Officer

नई दिल्ली, 30 अक्टूबर, 2006

का.आ. 4481.—औद्योगिक विद्वान् अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एस.ई.सी.एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विकास में केन्द्रीय सरकार औद्योगिक अधिकरण जबलपुर के पंचाट (संदर्भ संख्या 84/1997) को प्रकाशित करती है, जो केन्द्रीय सरकार को 30-10-2006 को प्राप्त हुआ था।

[सं. एल-22012/50/1996-आई आर (सी-II)]

अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 30th October, 2006

S.O. 4481.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 84/1997) of the Central Government Industrial Tribunal/Labour Court Jabalpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of SECL and their workman, which was received by the Central Government on 30-10-2006.

[No. L-22012/50/1996-IR(C-II)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
JABALPUR**

No. CGIT/LC/R/84/97

SHRI C. M. SINGH, Presiding Officer

The General Secretary,
Koyla Mazdoor Sabha,
Sohagpur Area,
PO Dhanpuri,
Distt. Shahdol (MP)

—Workman/Union

Versus

The Sub Area Manager,
Burhar Group of Mines,
PO Dhanpuri, Distt. Shahdol (MP) —Management

AWARD

Passed on this 5th day of October, 2006

1. The Government of India, Ministry of Labour *vide* its Notification No.L-22012/50/96-IR(C-II) dated 10-3-97 has referred the following dispute for adjudication by this tribunal:

"Whether the action of the management of Burhar group of Mines, SECL, Sohagpur area in dismissing Shri Bishambhar Dutta, Clerk Grade-I, Subhash Mines w.e.f. 7-5-95 is legal and justified? If not, to what relief the concerned workman is entitled?"

2. After the reference order was received, it was duly registered on 18-3-97 and notices were issued to the parties to file their respective statements of claim. The order dated 1-8-05 on the ordersheet of this reference proceeding reveals that in spite of sufficient service of notice on workman/Union, no one put in appearance on behalf of workman/Union. Therefore the reference proceeded *ex-parte* against the workman/Union.

3. Management filed their written statement. Their case in brief is as follows. Sohagpur area is one of the areas of SECL having its subsidiary company of Coal India Limited, the Government of India undertaking. The terms and conditions of employment of the employees working in Coal Industry are governed by various settlements that can be executed from time to time and is generally known as NCWA. In addition to provisions of NCWA, the service conditions of employees are governed by standing orders of the company. The NCWA contains the cadre schedule and job nomenclature. The workman was initially appointed as casual worker. He was given promotion from time to time while he was working as a clerk Grade-I, he was posted at Subhash Mine as Magazine clerk during the year 1994-95. Mainly the management is doing mining activity for production of coal. For production of coal, the company has several areas. Each area is further divided into sub-area and collieries. There are underground and open cast

mines. For the purpose of blasting the coal deposit, explosive materials such as Cartridges, Detonators etc. are used. The explosive materials are kept in magazine. The aforesaid explosives are exclusively used for mining purpose. In these days of widespread terrorism, explosives are to be kept with utmost care and caution. There are complaints of removal of explosives from mines which are used for coal mining purpose are being smuggled out. The workman was posted at magazine. He was responsible for maintenance of proper accounts of stock issued and balance of explosive materials in the magazine. He is also responsible for upkeep of the said explosives being kept in the magazine. On 2-12-94, workman Shri Bishambhar Dutta was on duty as Magazine clerk at Subhash Mine. Two boxes and 29 cartridges of explosives were the balance after issue of explosive in the 11nd shift which was to be kept inside the magazine and locked. However, those explosive materials were not kept inside the magazine under lock. He not even instructed the chowkidar to keep the same inside the magazine room. 15 explosives were acknowledged while receiving charge by Bishambhar Dutta. After issue of explosives in 11nd shift, the balance was 11 boxes, 20 cartridges which can be accommodated in chamber of magazine. The capacity of magazine is of 13-14 boxes. That one box explosive has been stolen during his shift duty on 2-12-94. For the aforesaid incident, the workman was issued with a charge sheet under clause 26.1, 26.5 and 26.13 of the standing orders. As no reply received from the workman, it was decided to conduct a departmental enquiry by appointing Shri Raghuraj Singh, Personnel Manager as Enquiry Officer and Shri Awadesh Pandey, Under Manager, Subhash Mines as management representative *viz* office order No. 348 dated 14-2-95. Vide memo No. 2058 dated 18-2-95, the first hearing of the enquiry was fixed on 20-2-95. That vide order No. 3533 dated 20-2-95 in place of Awadesh Pandey, Shri Pramod Kumar, Assistant Manager has been appointed as management's representative. As the management representative was not present, the proceeding was adjourned to 22-2-95. The enquiry proceeding has been adjourned at the request of the workman and 23-2-95 was fixed in the enquiry. On this date, Enquiry Officer read out the charges and explained to the workman. He was asked whether he admits the charges or not. The workman denied the charges. The Enquiry Officer permitted CSE to have the assistance of co-worker who was present in the enquiry. The EO explained the mode of enquiry. As the charges have been denied, the MR was advised to lead the prosecution case. Accordingly the MR gave his statement in support of the charges levelled against the workman. Subsequently the management produced and examined 3 witnesses. Thereafter the MR declared to have closed his evidence. The EO advised CSE to lead evidence in defence. The CSE/Co-worker declared that they have

not to examine any witness. Accordingly the workman submitted his statement. He was cross-examined by MR and discharged. The workman declared his evidence as closed. The workman submitted their brief in writing which was also taken on record. The EO submitted his report holding the workman guilty of charges. A copy of enquiry report was put up before the competent authority for consideration. Having examined the said report with reference to relevant documents on record, the competent authority by assessment of evidence finally satisfied that the conclusion drawn by the EO against the charges is in conformity with the facts of the case as well as the documents and evidence which came out during the course of enquiry. The Competent Authority, therefore, agreed with the findings of EO and concluded that the charges that have been proved. As the charges proved against the workman have been grave and the management lost confidence on him, it was decided to terminate the services of the workman. Accordingly vide order No. 2266 dated 7-5-95, his services were terminated. The workman has committed misconduct or negligence of duty. The management has lost confidence on him. Such a person is not entitled to be retained in service. Hence the punishment of "termination from services" is just and proper. The domestic enquiry was conducted legally and properly. The workman is, therefore, not entitled to any relief.

4. The management in order to prove their case filed affidavit of Shri M.L. Prajapat, the then posted as Sub Area Manager in SECL, Sohagpur Area.

5. The management has also filed photostat copies of certain documents but those copies have not been proved in accordance with the law of evidence and therefore they cannot be read in evidence.

6. I have heard Shri A.K. Shashi, Advocate for the management. I have very carefully gone through the entire evidence on record.

7. As the case proceeded *ex parte* against the workman/Union, neither the statement of claim nor any evidence has been adduced on behalf of workman/Union.

8. The case of the management stands proved by the uncontested and unchallenged affidavit of Shri M.L. Prajapat, the management's witness. Therefore, the reference deserves to be answered in favour of the management and against the workman/Union. Having considered the facts and circumstances of the case, I am of the view that the parties should be directed to bear their own costs of this reference.

9. In view of the above, the reference is decided in favour of the management and against the workman holding that the action of the management of Burhar group of mines, SECL, Sohagpur area in dismissing Shri Bishambhar Dutta, Clerk Grade-I, Subhash Mines w.e.f. 7-5-95 is legal and justified and consequently the workman is not entitled to

any relief. The parties shall bear their own costs of this reference.

10. Copy of the award be sent to the Government of India, Ministry of Labour as per rules.

C. M. SINGH, Presiding Officer

नई दिल्ली, 30 अक्टूबर, 2006

का.आ. 4482.—ऑद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एस. ई. सी. एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ऑद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचाट (संदर्भ संख्या 103/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 30-10-2006 को प्राप्त हुआ था।

[सं. एल-22012/175/2000-आई आर (सी-II)]

अजय कुमार गौड़, डैस्क अधिकारी

New Delhi, the 30th October, 2006

S.O. 4482.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 103/2002) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of SECL and their workman, which was received by the Central Government on 30-10-2006.

[No. L-22012/175/2000-IR(C-II)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/103/02

Shri C. M. Singh, Presiding Officer

Shri Rajneet & 7 others
Through The President,
M.P. Koyla Mazdoor Sabha (HMS),
Johilla Area PO Nowrozabad,
Umaria (MP) ... Workmen/Union

Versus

The Sub Area Manager,
SECLtd.,
Nowrozabad Sub Area,
PO Nowrozabad,
Umaria (MP)

.... Management

AWARD

Passed on this 3rd day of October, 2006

1. The Government of India, Ministry of Labour vide its Notification No. L-22012/175/2000-IR (CM-II) dated 9-7-2002 has referred the following dispute for adjudication by this Tribunal:—

“Whether the action of the Sub Area Manager, Nowrozabad, Sub Area of SECL, PO: Nowrozabad, Distt. Umaria in not regularising as General Clerk Gr. III in respect of Shri Ranjeet & 7 others is legal and justified”? if not, to what relief they are entitled to?”

2. After the reference order was received, it was duly registered on 19-7-2002 and notices were issued to the parties to file their respective statements of claim. The ordersheet dated 28-3-2005 of this reference proceeding reveals that in spite of sufficient service of notice on workmen/Union, no one put in appearance for them and therefore the reference proceeded ex-parte against the workmen/Union. The workmen/Union failed to file their statement of claim.

3. The management filed their Written statement. Their case in brief is as follows. The reference is in respect of 8 persons. Out of which Shri Abdul Saheed expired and Shri Salim Khan is not a matriculate—he could not be granted promotion. The case of the remaining persons were settled by settlements dated 6-7-2000 and 8-8-2001. In view of the settlements arrived in respect of 6 persons, no dispute survives with regard to those persons. It appears that the Central Government was not aware of the settlement therefore, by mistake the reference was made. In terms of settlement dated 8-8-2001, the dispute of S/Shri Ranjit Sarkar and Devendra Pratap Singh has been settled and they have been regularised as Clerk Grade-III. The dispute of 4 employees namely S/ Shri Mahmood Hassan, Rajendra Prasad Mishra, Sanjay Kumar Gureja and Santhosh Kumar Verma stands settled vide settlement dated 6-7-2000. In the light of the aforesaid settlement, vide office order No. 1413 dated 7-7-2002, they were posted at workshop for training. Vide office order No. 1768 dated 23-10-03, they were promoted as Workshop Machinist Cat. IV. Vide office order No. 500 dated 3-6-2004, they were granted national seniority to the post of Machinist Cat. IV w.e.f. 8-7-2003. The management maintains the service record of employees working in Coal Industry where the full service particulars are given. The service records of S/Shri Mahmood Hassan, Rajendra Prasad Mishra, Sanjay Kumar Gureja and Santhosh Kumar Verma show that they were given promotion as per settlement. The death certificate of late Abdul Saheed is being filed on record of this reference. Vide office order No. 521 dated 8/10-10-2003, his name has been struck off from the roll of the employees of the management. Shri Salim Khan had studied up-to Vth standard therefore not entitled for promotion to the post

of clerk Grade III. In the light of the above facts, circumstances and settlements, the case of each individual has been settled and thus the dispute does not survive. It has been prayed by the management that the reference be closed in the light of settlement already referred to above or in the alternative, an award may be passed in terms of settlements.

4. The management in support of their case, filed affidavit of Shri S.K. Gupta, the then working as Dy. Personnel Manager in Johilla Area, SECL. The management has also filed photostat copies of certain documents.

5. I have heard Shri A.K. Shashi, Advocate for the management. I have very carefully gone through the entire evidence on record.

6. As the reference proceeded ex-parte against the workmen/Union, no statement of claim has been filed on their behalf and no evidence has been adduced for them. Against the above, the following is fully proved from the unchallenged and uncontested affidavit of Shri S. K. Gupta, the then posted as Dy. Personnel Manager in Johilla Area, SECL.

"That in terms of settlement dated 8-8-2001 (Annexure M/1), when S/Shri Ranjit Sarkar and Devendra Pratap Singh have been regularised as clerk Gr-III vide office order No. 01/1214 dated 8-8-2001. The dispute of workmen S/Shri Mahmood Hassan, Rajendra Prasad Mishra, Sanjay Kumar Gureja and Santosh Kumar Verma stands settled vide settlement dated 6-7-2000 (Annexure M/3, M/4 M/5 & M/6 respectively). In terms of above settlement, vide office order No. 1413 dated 7-7-2002 (Annexure M/7), they were posted at workshop for training. Vide office order No. 1768 dated 23-10-2003, they were promoted as workshop Machinist (Annexure M/8). Vide office order No. 500 dated 03-06-2004, they were granted notional seniority to the post of Machinist Cat-IV w.e.f. 8-7-2003 (Annexure M/9). The service records of workmen S/Shri Mahmood Hassan, Rajendra Prasad Mishra, Sanjay Kumar Gureja and Santosh Kumar Verma (Annexures M/10, M/11, M/12 & M/13 respectively) show that they have been given promotion as per settlement. The Death Certificate of late Shri Abdul Saheed is Annexure M/14. Vide office order No. 521 dated 8/10/2003, his name has been struck off from the roll of employees of the management, a copy of the said order is Annexure M/15. Workman Shri Salim Khan has studied upto Vth standard as per his service record (M/16). He is, therefore, not entitled for selection to the post of clerk Grade -III."

Management's witness Shri S.K. Gupta has proved terms of reference dated 8-8-2001 (Annexure M/1) whereby the settlement has been arrived between the management and the workmen S/Shri Ranjit Sarkar and Devendra Pratap Singh. He also proved the settlements (Annexures M/3, M/4, M/5 & M/6 respectively) whereby the dispute has been settled between the management and the workmen

S/Shri Mahmood Hassan, Rajendra Prasad Mishra, Sanjay Kumar Gureja and Santosh Kumar Verma. Thus witness also proved management's office order No. 01/1214 dated 8-8-2001 (Exhibit M/2) whereby workmen S/Shri Ranjit Sarkar and Devendra Pratap Singh has been regularised as clerk Grade-III. He has also proved management's office order No. 1413 dated 7-7-2002 (Annexure M/7) whereby workmen S/Shri Mahmood Hassan, Rajendra Prasad Mishra, Sanjay Kumar Gureja and Santosh Kumar Verma were posted at workshop for training. He also proved management's office order No. 1768 dated 23-10-2003 (Annexure M/8) whereby the above named workmen were promoted as workshop machinist. This witness has also proved that these workmen were granted notional seniority to the post of machinist Cat-IV w.e.f. 8-7-2003 (Annexure M/9). This witness has also proved the service records (Annexures M/10, M/11, M/12 & M/13 respectively) of workmen S/Shri Mahmood Hassan, Rajendra Prasad Mishra, Sanjay Kumar Gureja and Santosh Kumar Verma which show that they have been promoted as per settlement. Shri Gupta, management's witness has also proved the death certificate of workman Shri Abdul Saheed as Annexure M/14 and office order No. 521 dated 8/10/2003 (Annexure M/15) whereby his name has been struck off from the rolls of employees of the management. This witness has also proved the service record of workman Shri Salim Khan which shows that he studied upto Vth Standard and therefore he could not be selected to the post of clerk Grade-III.

7. The above evidence clearly proves that the industrial dispute between workmen S/Shri Mahmood Hassan, Rajendra Prasad Mishra, Sanjay Kumar Gureja and Santosh Kumar Verma and the management has been settled and no dispute exists between the management and the above named workmen. Therefore it shall be just and proper to pass no dispute award regarding the above named workmen. It is proved from the above evidence that workman Shri Abdul Saheed died and therefore he could not be regularised as General Clerk Grade-III. So far as the dispute between the management and the workman Shri Salim Khan is concerned, the management has been legal and justified in their action of not regularising him as General Clerk Grade-III as he is not having the minimum required qualification for promotion to clerk Grade-III. Having considered the above I am of the view that no dispute award should be passed in this case, so far the reference relates to the workmen S/Shri Mahmood Hassan, Rajendra Prasad Mishra, Sanjay Kumar Gureja and Santosh Kumar Verma. So far as reference relating to workman, late Shri Abdul Saheed is concerned, the reference deserves to be answered in favour of the management and against the workman as he could not be promoted to clerk Grade-III due to his demise. The reference relating to the workman Shri Salim Khan is also to be answered in favour of the management and against the workman because he is not having minimum qualification for being promoted to clerk

Grade-III. Having considered the facts and circumstances of the case, I am of the view that the parties should be directed to bear their own costs of this reference.

8. In view of the above, no dispute award is passed without any order as to costs so far as the reference relates to workmen S/Shri Ranjit Sarkar, Devendra Pratap Singh, Shri Mahmood Hassan, Rajendra Prasad Mishra, Sanjay Kumar Gureja and Santosh Kumar Verma. The reference is answered in favour of the management and against the workmen holding that the action of Sub Area Manager, Nowrozabad, sub area of SECL, PO: Nowrozabad, Distt. Umaria in not regularising as General Clerk Gr. III. In respect of late Shri Abdul Saheed & Shri Salim Khan is legal and Justified and consequently they are entitled to any relief. The parties shall bear their own costs of this reference.

9. Copy of the award be sent to the Government of India, Ministry of Labour as per rules.

C. M. SINGH, Presiding Officer

नई दिल्ली, 30 अक्टूबर, 2006

का.आ. 4483.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एस. सी. सी. एल. के प्रबंधनत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, हैदराबाद के पंचाट (संदर्भ संन्दर्भ 70/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 30-10-2006 को प्राप्त हुआ था।

[सं. एल-22013/1/2006-आई आर (सी-II)]

अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 30th October, 2006

S.O. 4483.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 70/2006) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. SCCL and their workman, which was received by the Central Government on 30-10-2006.

[No. L-22013/1/2006-IR(C-II)]

AJAY KUMAR GAUR, Desk Officer

IN THE LOK ADALAT

(For settlement of cases relating to CGIT-cum-Labour Court at Hyderabad under Section 20 of the Legal Services Authorities Act, 1987)

Tuesday the Seventeenth day of October, Two Thousand and Six

PRESENT:

1. Sri K. Ashok Babu, District Judge : Presiding Officer.
2. Sri A.K. Jayaprakasha Rao, Advocate : Member

(Constituted U/s 19 of the LSA Act, 1987 by the
APSLSA Order ROC No. 186/LSA/2006 dt. 22-8-2006)

PLAC 21/2006

In the matter of case No. LCID 70/2006
(on the file of CGIT-cum-Labour Court at Hyderabad)

Between :

Md. Akbar, S/o Yousuf, C/o Smt. A. Sarojana, Advocate, Flat No. G-7, Rajeswari Gayatri Sadan, Opp : Badruka Jr. College for Girls, Kachiguda, Hyderabad Applicant

And

1. The General Manager,

M/s. Singareni Collieries Co. Ltd.,

Srirampur Area, Srirampur, Adilabad District.

2. The Colliery Manager,

M/s. Singareni Collieries Co. Ltd.,

RK. NT Incline, Srirampur, Adilabad District.

Respondents

This case is coming up before the Lok Adalat on 17-10-2006 for settlement in the presence of the applicant appearing in person/represented by his counsel, Sri K. Vasudeva Reddy and the Respondent too, being present in person/represented by his counsel, Sri on a perusal of the case record, after considering and hearing the case of both sides and with the consent of both sides, the Lok Adalat has arrived at the following settlement and delivered the following :

AWARD UNDER SECTION 21 OF THE L.S.A. ACT, 1987

The Petitioner having agreed to the detailed proposals of the Management [Clauses (a) to (g)], the contents of which are read over and explained to him in his language and agreed by him by signing the proposal sheet (enclosed to the Award), the Respondent is directed to take him back to duty forthwith as, Badli Coal Filler a fresh wherever coal filling is available.

This LCID is disposed of accordingly.

In agreement of the above, the parties/counsel have affixed their signatures/thumb impressions in the presence of the members of this Lok Adalat Bench.

Signature of Applicant(s) Signature of Respondent(s)

Signature of Counsel
for Applicant(s)

Signature of Counsel
for Respondent(s)

Signature of Members of the Bench.

1.

2.

Note : This Award is final and binding on all the parties and no appeal shall lie to any court as per Sec. 21(2) of the LSA Act, 1987.

**AWARD UNDER SECTION 21 OF THE L.S.A.
ACT, 1987**

The Petitioner having agreed to the detailed proposals of the Management [Clauses (a) to (g)], the contents of which are read over and explained to him in his language and agreed by him by signing the proposal sheet (enclosed to the Award), the Respondent is directed to take him back to duty forthwith as, Badli Coal Filler a fresh wherever coal filling is available.

This LCID is disposed of accordingly.

In agreement of the above, the parties/counsel have affixed their signatures/thumb impressions in the presence of the members of this Lok Adalat Bench.

Signature of Applicant(s) Signature of Respondent(s)

Signature of Counsel for Applicant(s) Signature of Counsel for Respondent(s)

Signature of Members of the Bench.

1.

2.

Note : This Award is final and binding on all the parties and no appeal shall lie to any court as per Sec.21(2) of the LSA Act, 1987.

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL CUM-LABOUR COURT
HYDERABAD**

LCID NO. 17/2004 & 43 OTHERS

Proposals of the management :

In order to have speedy and effective settlement of the cases before the Hon'ble Tribunal, Management of Singareni Collieries Co. Ltd. agrees to put forth the following proposals:

- Absenteeism cases pending before Tribunal as fresh appointment as Badli Coal Filler without back wages and continuity of service. Subject to medical fitness by Company Medical Board.
- At least 100 musters in any of the two years of the preceding 5 years of the dismissal.
- Absenteeism apart from pending cases will be considered only for such other cases provided dismissal is on or after 1-6-2006. Cases not filed as on 31-5-2006 will not be treated for consideration on the ground of judicial precedents.
- Irrespective of designations appointment will be as BCF afresh on coal filling where coal filling is available and need not be the same place where the workman was last employed.
- The observation of one year with minimum mandatory 20 musters every month and review every

three months on coal filling only is absolutely essential. In the event of any short fall of attendance during the 3 months period, the services will be terminated without any further notice and enquiry.

- Any forced absenteeism on account of mine accidents/natural disease, treatment taken at Company's Hospitals will be deemed as attendance during the trial period.
- All other usual terms and conditions of appointment will be applicable i.e. transfer, hours of work, days of rest, holidays etc. for appointment afresh.

The Hon'ble Members may kindly take note of the above and pass consent award under Section 21 of SLA Act 1987.

DGM(LAW)HYD

नई दिल्ली, 30 अक्टूबर, 2006

का.आर 4485.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एस. सी. सी. एल. के प्रबंधतात्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, हैदराबाद के पंचाट (संदर्भ संख्या 44/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 30-10-2006 को प्राप्त हुआ था।

[सं. एल-22013/1/2006-आई आर(सी-II)]

अजय कुमार गौड़, डैस्क अधिकारी

New Delhi, the 30th October, 2006

S.O. 4485.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 44/2006) of the Central Government Industrial Tribunal-cum-Labour Court Hyderabad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. SCCL and their workman, which was received by the Central Government on 30-10-2006.

[No. L-22013/1/2006-IR(C-II)]

AJAY KUMAR GAUR, Desk Officer

IN THE LOK ADALAT

(For settlement of cases relating to CGIT-cum-Labour Court at Hyderabad under Section 20 of the Legal Services Authorities Act, 1987)

Tuesday the Seventeenth day of October, Two Thousand and Six

PRESENT:

- Sri K. Ashok Babu, District Judge, : Presiding Officer.
- Sri A.K. Jayaprakasha Rao, Advocate : Member
(Constituted U/s 19 of the LSA Act, 1987 by the APSLSA Order ROC No. 186/LSA/2006 dt. 22-8-2006)

PLAC.19/2006

In the matter of case No. LCID 44/2006
(on the file of CGIT-cum-Labour Court at Hyderabad)
BETWEEN:
Kothapalli Janardhan,
S/o China Posham,
C/o. A. Sarojana, Advocate,
Flat No. G-7, Rajeswari Gayatri Sadan,
Opp : Badruka Girls Jr. College,
Kachiguda, Hyderabad. Applicant

And

1. The General Manager,
M/s. Singareni Collieries Co. Ltd.,
Mandamarri, Adilabad District.
2. The Colliery Manager,
KK-5 Incline,
M/s. Singareni Collieries Co. Ltd.,
Mandamarri, Adilabad District. Respondents

This case is coming up before the Lok Adalat on 17-10-2006 for settlement in the presence of the applicant appearing in person/represented by his counsel, Sri K. Vasudeva Reddy and the Respondent too, being present in person/represented by his counsel, on a perusal of the case record, after considering and hearing the case of both sides and with the consent of both sides, the Lok Adalat has arrived at the following settlement and delivered the following:

AWARD UNDER SECTION 21 OF THE L.S.A. ACT, 1987

The Petitioner having agreed to the detailed proposals of the Management [Clauses (a) to (g)], the contents of which are read over and explained to him in his language and agreed by him by signing the proposal sheet (enclosed to the Award), the Respondent is directed to take him back to duty forthwith as, Badli Coal Filler a fresh wherever coal filling is available.

This LCID is disposed of accordingly.

In agreement of the above, the parties/counsel have affixed their signatures/thumb impressions in the presence of the members of this Lok Adalat Bench.

—Sd—

—Sd—

Signature of Applicant(s) Signature of Respondent(s)

—Sd—

—Sd—

Signature of Counsel for Applicant(s) Signature of Counsel for Respondent(s)

Signature of Member of the Bench.

1. —Sd—
2. —Sd—

Note : This Award is final and binding on all the parties and no appeal shall lie to any court as per Sec.21(2) of the LSA Act, 1987.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT HYDERABAD

ID/LCID No.

Proposals of the management :

In order to have speedy and effective settlement of the cases before the Hon'ble Tribunal, Management of Singareni Collieries Co. Ltd. agrees to put forth the following proposals:

- (a) Absenteeism cases pending before Tribunal as fresh appointment as Badli Coal Filler without back wages and continuity of service. Subject to medical fitness by the Company Medical Board.
- (b) At least 100 musters in any of the two years of the preceding 5 years of the dismissal.
- (c) Absenteeism apart from pending cases will be considered only for such other cases provided dismissal is on or after 1-6-2006. Cases not filed as on 31-5-2006 will not be treated for consideration on the ground of judicial precedents.
- (d) Irrespective of designations appointment will be as BCF afresh on coal filling where coal filling is available and need not be the same place where the workman was last employed.
- (e) The observation of one year with minimum mandatory 20 musters every month and review every three months on coal filling only is absolutely essential. In the event of any short fall of attendance during the 3 months period, the services will be terminated without any further notice and enquiry.
- (f) Any forced absenteeism on account of mine accidents/natural disease, treatment taken at Company's Hospitals will be deemed as attendance during the trial period.
- (g) All other usual terms and conditions of appointment will be applicable i.e. transfer, hours of work, days of rest, holidays etc. for appointment afresh.

The Hon'ble Members may kindly take note of the above and pass consent award under Section 21 of LSA Act 1987.

—SD—

—SD—

—Sd—

—Sd—

—Sd—

नई दिल्ली, 30 अक्टूबर, 2006

का.आ 4486—आंशिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसार मे, केन्द्रीय सरकार एस. सी. सी. एल. के प्रबंधालय के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट आंशिक विवाद में केन्द्रीय

dismissal is on or after 1-6-2006. Cases not filed as on 31-5-2006 will not be treated for consideration on the ground of judicial precedents.

- (d) Irrespective of designations appointment will be as BCF afresh on coal filling where coal filling is available and need not be the same place where the workman was last employed.
- (e) The observation of one year with minimum mandatory 20 musters every month and review every three months on coal filling only is absolutely essential. In the event of any short fall of attendance during the 3 months period, the services will be terminated without any further notice and enquiry.
- (f) Any forced absenteeism on account of mine accidents/natural disease, treatment taken at Company's Hospitals will be deemed as attendance during the trial period.
- (g) All other usual terms and conditions of appointment will be applicable i.e. transfer, hours of work, days of rest, holidays etc. for appointment afresh.

The Hon'ble Members may kindly take note of the above and pass consent award under Section 21 of LSA Act, 1987.

DGM(LAW)HYD

(LTI of L Ramaiah)

नई दिल्ली, 30 अक्टूबर, 2006

का.आ. 4487.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एस. सी. सी. एल. के प्रबंधतंत्र के संबंध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, हैदराबाद के पंचाट (संदर्भ संख्या 64/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 30-10-2006 को प्राप्त हुआ था।

[सं. एल-22013/1/2006-आई आर (सी-II)]

अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 30th October, 2006

S.O. 4487.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 64/2005) of the Central Government Industrial Tribunal/Labour Court Hyderabad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. SCCL and their workman, which was received by the Central Government on 30-10-2006.

[No. L-22013/1/2006-IR(C-II)]

AJAY KUMAR GAUR, Desk Officer

IN THE LOK ADALAT

(For settlement of cases relating to CGIT-cum-Labour Court at Hyderabad under Section 20 of the Legal Services Authorities Act, 1987)

Tuesday the Seventeenth day of October, Two Thousand and Six

PRESENT:

1. Sri K. Ashok Babu, District Judge : Presiding Officer.
2. Sri A.K. Jayaprakasha Rao, Advocate : Member

(Constituted u/s 19 of the LSA Act, 1987 by the APSLA Order ROC No. 186/LSA/2006 dt. 22-8-2006)

PLAC. 17/2006

In the matter of case No. LCID 64/2005
(on the file of CGIT-cum-Labour Court at Hyderabad)

Between:

The General Secretary,
(Sri B. Satyanarayana)
Singareni Collieries Employees Council,
Q No BCM 30 Vittal Nagar,
Godavari Khani-504 231 Applicant

And

1. The General Manager,
M/s. S C Co. Ltd.,
Mandamarri Division,
Mandamarri-504 231 Respondents

SCHEDULE

"Whether the action of the management of SCCL, Mandamarri Division, in dismissing Shri Ch. Vijaya Kumar, Coal filler from services w.e.f. 30-6-2001 is legal and justified ? If not, to what relief he is entitled ?"

This case is coming up before the Lok Adalat on 17-10-2006 for settlement in the presence of the applicant appearing in person/represented by his counsel, Sri K. Vasudeva Reddy and the Respondent too, being present in person/represented by his counsel, on a perusal of the case record, after considering and hearing the case of both sides and with the consent of both sides, the Lok Adalat has arrived at the following settlement and delivered the following :

AWARD UNDER SECTION 21 OF THE L.S.A. ACT, 1987

The Petitioner having agreed to the detailed proposals of the Management [Clauses (a) to (g)], the contents of which are read over and explained to him in his language and agreed by him by signing the proposal sheet (enclosed to the Award), the Respondent is directed to take him back to duty forthwith as, Badli Coal Filler a fresh wherever coal filling is available.

This LCID is disposed of accordingly.

In agreement of the above, the parties/counsel have affixed their signatures/thump impressions in the presence of the members of this Lok Adalat Bench.

Signature of Applicant(s) Signature of Respondent(s)

Signature of Counsel for Applicant(s) Signature of Counsel for Respondent(s)

Signature of Members of the Bench.

1.

2.

Note : This Award is final and binding on all the parties and no appeal shall lie to any court as per Sec. 21(2) of the LSA Act, 1987.

ANNEXURE
BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT
HYDERABAD

ID/LCID No.

Proposals of the management :

In order to have speedy and effective settlement of the cases before the Hon'ble Tribunal, Management of Singareni Collieries Co. Ltd. agrees to put forth the following proposals:

- (a) Absenteeism cases pending before Tribunal as fresh appointment as Badli Coal Filler without back wages and continuity of service. Subject to medical fitness by the Company Medical Board.
- (b) At least 100 musters in any of the two years of the preceding 5 years of the dismissal.
- (c) Absenteeism apart from pending cases will be considered only for such other cases provided dismissal is on or after 1-6-2006. Cases not filed as on 31-5-2006 will not be treated for consideration on the ground of judicial precedents.
- (d) Irrespective of designations appointment will be as BCF afresh on coal filling where coal filling is available and need not be the same place where the workman was last employed.
- (e) The observation of one year with minimum mandatory 20 musters every month and review every three months on coal filling only is absolutely essential. In the event of any short fall of attendance during the 3 months period, the services will be terminated without any further notice and enquiry.
- (f) Any forced absenteeism on account of mine accidents/natural disease, treatment taken at Company's Hospitals will be deemed as attendance during the trial period.
- (g) All other usual terms and conditions of appointment will be applicable i.e. transfer, hours of work, days of rest, holidays etc. for appointment afresh.

The Hon'ble Members may kindly take note of the above and pass consent award under Section 21 of SLA Act, 1987.

DGM (LAW)HYD

नई दिल्ली, 30 अक्टूबर, 2006

का.आ. 4488.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एस. सी. सी. एल. के प्रबंधतंत्र के संबंध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, हैदराबाद के पंचाट (संदर्भ संख्या 51/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 30-10-2006 को प्राप्त हुआ था।

[सं. एल-22013/1/2006-आई आर (सी-II)]

अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 30th October, 2006

S.O. 4488.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 51/2005) of the Central Government Industrial Tribunal/Labour Court, Hyderabad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. SCCL and their workman, which was received by the Central Government on 30-10-2006.

[No. L-22013/1/2006-IR(C-II)]

AJAY KUMAR GAUR, Desk Officer

IN THE LOK ADALAT

(For settlement of cases relating to CGIT-cum-Labour Court at Hyderabad under Section 20 of the Legal Services Authorities Act, 1987)

Tuesday the Seventeenth day of October, Two Thousand and Six

PRESENT:

1. Sri K. Ashok Babu, District Judge : Presiding Officer.
 2. Sri A.K. Jayaprakasha Rao, Advocate : Member
 (Constituted u/s 19 of the LSA Act, 1987 by the APSL SA Order ROC No. 186/LSA/2006 dt. 22-8-2005)

PLAC. 16/2006

In the matter of case No. LCID 51/2005
 (on the file of CGIT-cum-Labour Court at Hyderabad)

Between :

The General Secretary,
 (Sri Bandari Satyanarayana)
 Singareni Collieries Employees Council,
 (TNTUC)
 B.C.M. 30, Vittal Nagar,
 Godavari Khani-505 209 Applicant

And

The General Manager,
 M/s. Singareni Collieries Company Limited,
 Srirampur Division
 Srirampur-504303. Respondents

This case is coming up before the Lok Adalat on 17-10-2006 for settlement in the presence of the applicant

appearing in person/represented by his counsel, Sri K. Vasudeva Reddy and the Respondent too, being present in person/represented by his counsel, on a perusal of the case record, after considering and hearing the case of both sides and with the consent of both sides, the Lok Adalat has arrived at the following settlement and delivered the following :

**AWARD UNDER SECTION 21 OF THE L.S.A.
ACT, 1987**

The Petitioner having agreed to the detailed proposals of the Management [Clause (a) to (g)], the contents of which are read over and explained to him in his language and agreed by him by signing the proposal sheet (enclosed to the Award), the Respondent is directed to take him back to duty forthwith as, Badli Coal Filler a fresh wherever coal filling is available.

This LCID is disposed of accordingly.

In agreement of the above, the parties/counsel have affixed their signatures/thump impressions in the presence of the members of this Lok Adalat Bench.

Signature of Applicant(s) Signature of Respondent(s)

—Sd—

—Sd—

Signature of Counsel
for Applicant(s)

Signature of Counsel
for Respondent(s)

—Sd—

—Sd—

Signature of Members of the Bench.

1.

2.

Note : This Award is final and binding on all the parties and no appeal shall lie to any court as per Sec. 21 (2) of the LSA Act, 1987.

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
HYDERABAD**

ID/LCID No.

Proposals of the management :

In order to have speedy and effective settlement of the cases before the Hon'ble Tribunal, Management of Singareni Collieries Co. Ltd. agrees to put forth the following proposals:

- Absenteeism cases pending before Tribunal as fresh appointment as Badli Coal Filler without back wages and continuity of service. Subject to medical fitness by the Company Medical Board.
- At least 100 musters in any of the two years of the preceding 5 years of the dismissal.
- Absenteeism apart from pending cases will be considered only for such other cases provided dismissal is on or after 1-6-2006. Cases not filed as on 31-5-2006 will not be treated for consideration on the ground of judicial precedents.

- Irrespective of designations appointment will be as BCF afresh on coal filling where coal filling is available and need not be the same place where the workman was last employed.
- The observation of one year with minimum mandatory 20 musters every month and review every three months on coal filling only is absolutely essential. In the event of any short fall of attendance during the 3 months period, the services will be terminated without any further notice and enquiry.
- Any forced absenteeism on account of mine accidents/natural disease, treatment taken at Company's Hospitals will be deemed as attendance during the trial period.
- All other usual terms and conditions of appointment will be applicable i.e. transfer, hours of work, days of rest, holidays etc. for appointment afresh.

The Hon'ble Members may kindly take note of the above and pass consent award under Section 21 of LSA Act, 1987.

DGM (LAW)HYD

नई दिल्ली, 30 अक्टूबर, 2006

का.आ. 4489.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एस. सी. सी. एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, हैदराबाद के पंचाट (संदर्भ संख्या 18/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 30-10-2006 को प्राप्त हुआ था।

[सं. एल-22013/1/2006-आई आर (सी-II)]

अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 30th October, 2006

S.O. 4489.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 18/2004) of the Central Government Industrial Tribunal/Labour Court, Hyderabad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. SCCL and their workman, which was received by the Central Government on 30-10-2006.

[No. L-22013/1/2006-IR(C-II)]

AJAY KUMAR GAUR, Desk Officer

IN THE LOK ADALAT

**(For settlement of cases relating to CGIT-cum-Labour
Court at Hyderabad under Section 20 of the Legal
Services Authorities Act, 1987)**

**Tuesday the Seventeenth day of October, Two
Thousand and Six**

PRESENT:

- Sri K. Ashok Babu, District Judge : Presiding Officer
- Sri A.K. Jayaprakasha Rao, Advocate : Member

(Constituted U/s 19 of the LSA Act, 1987 by the
APSLA Order ROC No. 186/LSA/2006 dt. 22-8-2006)
PLAC. 15/2006

In the matter of case No. LCID 18/2004
(on the file of CGIT-cum-Labour Court at Hyderabad)

BETWEEN:

P Venkata Reddy,
S/o Ramana Reddy,
Ex-Coal, Filler, GDK III Incline,
M/s. S C Co. Ltd.,
Godavari Khani,
Karimnagar District

..... Applicant

AND

1. The Chief General Manager,
M/s. S C Co. Ltd.,
RG I Area, Godavari Khani,
Karimnagar District
2. The Superintendent of Mines,
GDK III Incline,
S C Co. Ltd.,
Godavari Khani,
Karimnagar District

..... Respondents

This case is coming up before the Lok Adalat on 17-10-2006 for settlement in the presence of the applicant appearing in person/represented by his counsel, Sri K. Vasudeva Reddy and the Respondent too, being present in person/represented by his counsel, on a perusal of the case record, after considering and hearing the case of both sides and with the consent of both sides, the Lok Adalat has arrived at the following settlement and delivered the following:

**AWARD UNDER SECTION 21 OF THE L.S.A.
ACT, 1987**

The Petitioner having agreed to the detailed proposals of the Management [Clause (a) to (g)], the contents of which are read over and explained to him in his language and agreed by him by signing the proposal sheet (enclosed to the Award), the Respondent is directed to take him back to duty forthwith as, Badli Coal Filler a fresh wherever coal filling is available.

This LCID is disposed of accordingly.

In agreement of the above, the parties/counsel have affixed their signatures/thump impressions in the presence of the members of this Lok Adalat Bench.

Signature of Applicant(s) Signature of Respondent(s)
—Sd— —Sd—

Signature of Counsel
for Applicant(s) Signature of Counsel
for Respondent(s)
—Sd— —Sd—

Signature of Members of the Bench.

1.

2.

Note : This Award is final and binding on all the parties and no appeal shall lie to any court as per Sec.21(2) of the LSA Act, 1987.

**ANNEXURE
BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL CUM-LABOUR COURT
HYDERABAD**

LCID NO. 18/2004

Proposals of the management :

In order to have speedy and effective settlement of the cases before the Hon'ble Tribunal, Management of Singareni Collieries Co. Ltd. agrees to put forth the following proposals:

- (a) Absenteeism cases pending before Tribunal as fresh appointment as Badli Coal Filler without back wages and continuity of service. Subject to medical fitness by the Company Medical Board.
- (b) At least 100 musters in any of the two years of the preceding 5 years of the dismissal.
- (c) Absenteeism apart from pending cases will be considered only for such other cases provided dismissal is on or after 1-6-2006. Cases not filed as on 31-5-2006 will not be treated for consideration on the ground of judicial precedents.
- (d) Irrespective of designations appointment will be as BCF afresh on coal filling where coal filling is available and need not be the same place where the workman was last employed.
- (e) The observation of one year with minimum mandatory 20 musters every month and review every three months on coal filling only is absolutely essential. In the event of any short fall of attendance during the 3 months period, the services will be terminated without any further notice and enquiry.
- (f) Any forced absenteeism on account of mine accidents/natural disease, treatment taken at Company's Hospitals will be deemed as attendance during the trial period.
- (g) All other usual terms and conditions of appointment will be applicable i.e. transfer, hours of work, days of rest, holidays etc. for appointment afresh.

The Hon'ble Members may kindly take note of the above and pass consent award under Section 21 of L.S.A Act, 1987.

DGM (LAW)HYD

नई दिल्ली, 31 अक्टूबर, 2006

का.आ. 4490.—आौद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार द्वारा संचार विभाग के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट आौद्योगिक विवाद में केन्द्रीय सरकार आौद्योगिक

अधिकरण/त्रिम न्यायालय हैदराबाद के पंचाट (संदर्भ संख्या एल सी आई डी-208/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 31-10-06 को प्राप्त हुआ था।

[सं. एल-40025/10/2006-आई.आर (डी.यू.)]
सुरेन्द्र सिंह, डेस्क अधिकारी

New Delhi, the 31st October, 2006

S.O. 4490.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. LCID 208/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Telecom Department and their workman which was received by the Central Government on 31-10-2006.

[No. L-40025/10/2006-IR (DU)]

SURENDRA SINGH, Desk Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT
HYDERABAD**

PRESENT:

Shri T Ramachandra Reddy, Presiding Officer

Dated the 19th day of October, 2006

Industrial Dispute No. L.C. I.D. 208/2004

Between :

Sri G. Govindu,

S/o Arjuna,

C/o M/s. M. Panduranga Rao,
2-2-18/40/10, Durgabai Deshmukh
Colony, Bagh Amberpet, Near Ahobil Mutt,
Colony No. H 7,
Hyderabad.

...Petitioner

AND

1. The Chief General Manager,
Bharat Sanchar Nigam Limited,
Door Sanchar Bhavan, Nampally
Station Road, Hyderabad.

2. The General Manager,
O/o General Manager,
Telecom District,
Visakhapatnam.
... Respondents

APPEARANCES:

For the Petitioner : M/s. M. Panduranga Rao &
M. Srikanth, Advocates

For the Respondent : Sri V. Rajeshwara Rao,
Advocate

AWARD

This is a case taken under Sec. 2 A (2) of the I.D. Act, 1947 in view of the judgement of the Hon'ble High Court of Andhra Pradesh reported in W. P. No. 8395 of 1989 dated 3-8-1995 between Sri U. Chinnappa and M/s. Cotton Corporation of India and two others and numbered in this Court as L.C.I.D. No. 208/2004 and notices were issued to the parties.

2. Petitioner's Counsel Sri M. Srikanth reported that there are no legal heirs and not pressing the petition and endorsed to that effect. Hence, petition dismissed as not pressed. Transmit.

Dictated to Smt. P. Phani Gowri, Personal Assistant transcribed by her corrected and pronounced by me on this the 19th day of October, 2006.

T. RAMACHANDRA REDDY, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner Witnesses examined for the Respondent

NIL NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 31 अक्टूबर, 2006

का.आ. 4491.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार द्वारा संचार विभाग के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/त्रिम न्यायालय नं.-II, नई दिल्ली के पंचाट (संदर्भ संख्या 67 से 72/01 तक) को प्रकाशित करती है, जो केन्द्रीय सरकार को 31-10-06 को प्राप्त हुआ था।

[सं. एल-40012/134 से 139 तक/2001-आई.आर (डी.यू.)]

सुरेन्द्र सिंह, डेस्क अधिकारी

New Delhi, the 31st October, 2006

S.O. 4491.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 67 to 72/01) of the Central Government Industrial Tribunal-cum-Labour Court, No. II, New Delhi as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Telecom Department and their workman which was received by the Central Government on 31-10-2006.

[No. L-40012/134 to 139/2001-IR (DU)]

SURENDRA SINGH, Desk Officer

ANNEXURE

BEFORE THE PRESIDING OFFICER: CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM- LABOUR COURT-II, NEW DELHI

R.N. RAI, Presiding Officer :

I.D. Nos. 72/2001, 71/01, 67/01, 70/01, 68/01 & 69/01

In the Matter of:—

Shri Sat Narayan Singh & 5 Ors.,
H. No. P-10, Block (P), SGM Nagar,
Faridabad (Haryana)

VERSUS

The General Manager (Telephones),
Sector : 16,
Faridabad (Haryana).

AWARD

The Ministry of Labour by its letter Nos. L-40012/139/2001-IR (DU) Central Government Dt. 07-09-2001, L-40012/138/2001-IR (DU) Dt. 07-09-2001, L-40012/134/2001-IR (DU) Dt. 06-09-2001, L-40012/137/2001-IR (DU) Dt. 07-09-2001, L-40012/135/2001-IR (DU) DT. 07-9-2001 & L-40012/136/2001-IR (DU) DT. 07-09-2001 has referred the following points for adjudication.

The points run as hereunder :—

- (1) "Whether the action of the management of Department of Telecommunications to retrench Shri Sat Narain without notice and payment of retrenchment compensation is valid and justified? If not, to what relief the workman is entitled."
- (2) "Whether the action of the management of Department of Telecommunications to retrench Shri Rajesh Dixit without notice and payment of retrenchment compensation is valid and justified? If not, to what relief the workman is entitled."
- (3) "Whether the action of the management of Department of Telecommunications to retrench Shri Anil Kumar without notice and payment of retrenchment compensation is valid and justified? If not, to what relief the workman is entitled."
- (4) "Whether the action of the management of Department of Telecommunications to retrench Shri Surinder without notice and payment of retrenchment compensation is valid and justified? If not, to what relief the workman is entitled."
- (5) "Whether the action of the management of Department of Telecommunications to retrench Dharan Singh without notice and payment of retrenchment compensation is valid and justified? If not, to what relief the workman is entitled."
- (6) "Whether the action of the management of Department of Telecommunications to retrench

Shri Hukam without notice and payment of retrenchment compensation is valid and justified? If not, to what relief the workman is entitled."

These separate references are regarding termination of services of 6 workmen. All these references involve the same dispute and they can be adjudicated upon by the same evidence and by the same order together.

The workmen applicant have filed claim statement. In their claim statement they have stated that the claimants were appointed as a Telegraph Messenger by the respondent/management through SDE Incharge, General Telegraph Office, Nehru Ground, N.I.T., Faridabad. The SDE Incharge, General Telegraph Office, Nehru Ground, NIT Faridabad appointed the claimants after taking the test and interview but no appointment letter was issued to the claimants at the time of their appointment.

That the SDE In charge General Telegraph Office, Nehru Ground, NIT Faridabad on 30-10-1998 threatened all the telegram messengers including the claimants/workmen that their services shall stand terminated w.e.f. 16-11-1998 upon which the claimants/workmen filed a suit for permanent injunction and mandatory injunction in the court of Civil Judge, Sr. Division Faridabad on 02-11-1998. On 02-11-1998 the case was fixed for 05-11-1998 for notice to the management. On 05-11-1998 the management appeared before the court of Shri Rakesh Singh, Civil Judge, Junior Division, Faridabad. On that date the Hon'ble Civil Court was pleased to adjourn the case for 27-11-1998 and till then the management was restrained from terminating the service of the claimants/workmen.

That inspite of the stay order granted by the Hon'ble Civil Court, Faridabad on 05-11-1998, the SDE In charge, Telegraph Office, NIT, Faridabad terminated the services of the claimants/workmen on 06-11-1998 in an illegal and arbitrary manner without complying with the mandatory provisions of Industrial Disputes Act, 1947. It is worthwhile to mention here that as the services of the claimants/workmen who were a party in the Civil Suit were terminated by the management on 06-11-1998 hence the suit of the plaintiffs (now the claimants/workmen) became infructuous hence the claimants/workmen on 18-11-1999 withdrew the suit and the suit was dismissed as withdrawn. The claimants/workmen filed a contempt petition in the Hon'ble Civil Court against the management which is yet pending. The photocopy of the plaint, stay application, affidavit filed by the claimant/workmen the written statement filed by the respondent/management, the copy of order dated 05-11-1998 and the photocopy of the order dated 18-11-1999 are enclosed herewith.

That during his service span from 23-01-1996 to 06-11-1998 the claimants/workmen regularly worked as Telegram Messenger and was duly paid by the respondent/Management. The workmen have received their all wages except for the month of October 98 and 6 days of November 98.

The Claimants/workmen were assigned the duties of a Peon in the Telephone Exchange, Nehru Ground, NIT Faridabad. They used to serve water and tea in the office and to handover the papers in Telephone Exchange, Nehru Ground, NIT Faridabad and on every Sunday he used to deliver the telegrams in NH-III, NH-IV, NH-V, NIT Faridabad, Sector 21A, 21B, 21C, Gandhi Colony, Dabua Colony and other places.

That the unfair labour practice is at the peak in the respondent office. The respondent used to change the name of the claimants/workmen and the Ticket No. which was allotted to the Telegram Messenger in its record so that the claimants/workmen may not be above to get the benefit of ID Act, 1947.

That the termination of service of the claimants/workmen by the respondent/management on 06-11-1998 is absolutely illegal, null and void ab-initio against the provisions of ID Act, 1947 and the principles of natural justice and further against the provisions of Constitution of India and is non-existent in the eyes of law and is liable to be set aside on the ground inter alia the followings :—

- (1) That no notice or pay in lieu of notice and retrenchment compensation was paid to the applicants/workmen at the time of termination of their services which is in violation of Section 25-F, 25-N of the ID Act, 1947.
- (2) That no permission was sought from the appropriate government by the respondent/management before terminating the services of the applicants/workmen as required under section 25N of the ID Act, 1947.
- (3) That fresh person have been employed by the respondent/management in place of the applicants/workmen after terminating the services of the applicants/workmen which is in violation of Section 25H of the ID Act, 1947.
- (4) That the respondent/management has terminated the services of the applicants/workmen while retaining the juniors in service which is in violation of Section 25G of the ID Act, 1947.
- (5) That the services of the claimants/workmen has been terminated by the respondent/management while exercising its colourable powers vested in it.
- (6) That no charge sheet, memo, warning or show cause notice was ever issued to the claimants/workmen before terminating the services of the applicant. Furthermore, no inquiry was conducted against the claimants/workmen before terminating the services.
- (7) That the applicants/workmen have completed more than 240 days in the last one calendar year hence the termination of the workman without complying with the mandatory provisions of the ID Act, 1947 is absolutely illegal, null and void ab initio.

- (8) That the applicants/workmen was getting Rs. 1860/- per month at the time of termination of his services.

The management has filed written statement. In the written statement it has been stated that "whether the action of the management of Department of Telecommunication to retrench Shri Sat Narain Singh & 5 Others without notice and payment of retrenchment compensation is valid and justified? If not, to what relief the workmen are entitled" is bad in law in as much as the workmen were neither employed by the management nor were terminated/retrenched by the management and therefore, there was no employer-employee relationship between the workmen and the management. The workmen were neither engaged nor recruited by the management nor were member of service nor any appointment letter was not issued, nor their services were terminated by the management. Hence, the workmen have no locus standi to raise any industrial dispute and, therefore, also the reference is bad in law.

That in view of the judgement in the case of P.K. Vijayan Nair and Ors. Versus Asstt. Superintendent of the Post Offices reported as 1995 ATC 414, the provisions of Industrial Dispute shall not apply to the government servants, even though they may appear to be falling under the definition of worker and the department look to be covered under the definition of industry. Therefore, department of Telecommunication is not governed under the Industrial Disputes Act. Further it has been decided in the case of M. Venu Gopal Versus Divisional Manger, LIC reported in (1998) ATC 414, 1994(27) ATC 84 that employees of LIC were a separate class having their own rules and thus could not claim protection under the Industrial Dispute Act and therefore, the workman who falsely alleges that he has been appointed by the management has no redressal of his grievance under the ID Act. The jurisdiction lies with the Central Administrative Tribunal and not with this Hon'ble Tribunal. Therefore, the present dispute raised by the workmen deserves to be dismissed on this ground alone.

That the claim of the workmen is further not maintainable being barred by the principles of res judicata. Admittedly, the workmen have filed Civil Suit No. 503 of 1998 on the same cause of action and no specific liberty has been obtained from the court for raising the present dispute before this Hon'ble Tribunal and as such the present dispute is liable to be dismissed. For better appreciation of the facts, a copy of the letter dated 29-12-1999 written by the Asstt. Labour Commissioner (C), Faridabad to the Secretary, Ministry of Labour, Shram Shakti Bhawan, New Delhi on the basis of which the reconciliation proceedings were closed is annexed hereto and marked as Annexure M-1.

That in view of the judgement of the Hon'ble Supreme Court of India in the case of State of Himachal Pradesh Versus Suresh Kumar Verma reported as JT 1996 (2) SC 455,

it has been held that appointment of daily wages basis is not an appointment to a post according to the rules and cannot give any protection to reengage such person in any work or to appoint him/her against the existing vacancies. Therefore, also assuming without admitting that if the workmen had worked on some day is not entitled to any relief from this Hon'ble Tribunal.

That Asstt. Labour Commissioner had no authority to continue with the conciliation proceedings on the basis of demand notice dated 08-02-1999 after closing the same vide report dated 12-09-1999. Therefore, the reference on the basis of the report dated 24-04-2001 is bad in law in as much as the report itself was submitted without any subsisting demand notice. That it is specifically denied that the workmen appointed by the management w.e.f. 23-01-1996 as a Telegram Messenger through SDE in charge. It is denied that the SDE in charge General Telegraph Office, NIT Faridabad appointed the workmen after taking the test and interview but no appointment letter was issued to the workmen at the time of his appointment. The averments made in the para under reply are out of place because the workmen never appointed by the management and the question of non issuance of appointment order does not arise. The workmen are put to strict proof of his contention that he joined the management w.e.f. 23-01-1996 or at any point of time. They are called upon to show their letter of appointment or any other document to prove that they were appointed by the management. However, the management reserves its right to file proper reply to the said averments after the workmen produces such documents.

It is submitted that the workmen have filed a misconceived Civil Suit as the same was devoid of any merit and there was no chance of succeeding therein, the workmen in their mischievous and motivated attempt during the pendency of the suit raised the illegal demand on the basis of which the conciliation proceedings were initiated. If the contention of the workmen were true, then, they should have pursued the said suit and the alleged contempt of court proceedings against the management. Their deviation therefrom is an ample proof that they have filed a false case and they are still continuing with their false claim purely on a concocted story with the motive of making undue gains. The workmen are called upon to place on record the orders passed by the Hon'ble Civil Court. It is denied that the SDE in charge General Telegraph Office, NIT Faridabad threatened the workmen that their services shall stand terminated w.e.f. 16-11-1998. It is further denied that the service of the workmen were terminated in an illegal and arbitrary manner without complying with the mandatory provisions of ID Act, 1947.

It is submitted that the proceedings before the ALC(C) was closed in view of the misconceived proceedings pending in the Civil Court. A copy of the report dated 29-12-1999 of the ALC (C) had no authority to continue

with the conciliation proceedings on the basis of demand notice dated 08-02-1999 after closing the same vide report dated 12-09-1999. Therefore, the reference on the basis of the report dated 24-04-2001 is bad in law in as much as the report itself was submitted without any subsisting demand notice. It is further submitted that the conciliation proceedings could not have started once it has been closed on the same demand.

It is denied that the workmen were duly paid by the respondent/management. Since the workmen were not appointed by the management there was no question of paying salary to them on per month basis or otherwise. It is denied that during the service span from 23-01-1996 to 06-11-1998 the workmen regularly worked as a telegram messenger and were duly paid by the respondent. It is further denied that the workmen have received all wages except for the month of October, 1998 and 6 days of November 1998.

It is denied that the respondent in order to deprive the claimants to get the benefit of ID Act, 1947 used to change the name of the workmen.

It is submitted that the claimants were neither engaged nor recruited by the management and nor any appointment letter was issued to them so the question of depriving with any benefit or termination of their services cannot arise. The workmen have concocted a story which denied specifically. It is specifically denied that the management has even paid to the workmen for their alleged work.

It is denied that the termination of service of the workmen by the respondent is absolutely illegal and against the provisions of ID Act, 1947. The management reiterates that all the allegations are concocted and an after thought and the stand is repeated and reiterated that the workmen has never been appointed by the management nor have they been terminated as alleged.

That there is no termination of any service by the management, there is no question of violation of various provisions including of Section 25F, 25N of the ID Act, 1947. It is denied that the management is guilty of unfair trade practice because of observing and acting on hire and fire practices.

That it is denied that the management has terminated the services of workmen and therefore, it is irrelevant to suggest that the management had engaged telephone messenger after terminating the services of the present workmen on 06-11-1998 and retaining the juniors in service despite the orders from the Hon'ble Court.

That the averments made under reply that no charge sheet was issued, nor any domestic inquiry/departmental inquiry was instituted before termination of service by the management are all irrelevant because the workmen were not in the service of the management. It is denied that any

action of the management vis-a-vis the workmen are of punitive nature.

That it is denied that the workmen have completed more than 240 days in the last calendar year hence the termination is illegal. It is submitted that there is no termination of services of the workmen by the management and therefore, it is misconceived and wrong to allege that the termination is patently illegal.

That it is denied that the workmen were getting Rs. 1860 per month at the time of termination. Hence the claimants/workmen are not entitled to get any relief from this Hon'ble Tribunal.

It was submitted from the side of the workmen that they worked regularly w.e.f. 23-1-1996 to 6-11-1998 as Telegram Messenger and were paid by the management. They have not been paid any notice pay or compensation. The workmen have filed photocopies of attendance slip B-53. These slips are photocopies regarding duties assigned to the workmen. It has been signed by officials of the management. These photocopies pertain to department of telecommunications. These copies have not been denied by the respondent/management. The workmen have filed photocopies of Assistant Diary. These papers also have not been denied. These papers pertain to the department of telecommunication. Annexure B-81 to B-149 amply prove that these photocopies pertain to the department of telecommunication. MW1 has stated in his cross examination that contractor has supplied the workmen. Contract of 23-6-1997 has been filed but this does not relate to the concerned workmen.

This witness has admitted that telegrams were issued for distribution from CTO to the workmen. This witness has also stated that Daily Messengers were engaged as and when required and they are paid by hand receipt which the witness has not brought. This witness has also admitted that there are Overseers and Supervisors in the CTO.

The management witness has admitted that Daily Wagers are engaged in the CTO for delivery of telegrams. The workmen have filed the chart of their duties and they have filed the original documents of their work of April, 1997. The management witness has stated that he has no knowledge as to which staff was working during the period 1995 to 1998 under CTO. He has further stated that he cannot say which Daily Wagers were working under CTO during the period September 1995 to 1998. He has admitted the Yellow Coloured papers belongs to his department. Thus it has been clearly admitted by this witness that Daily Wagers are engaged under the supervision of CTO for distribution of telegrams. The management has concealed the original documents. It appears that this witness has avoided all the relevant questions.

In case these workmen were not entrusted with the work of distribution of telegrams the management should

supply the names of the persons who were engaged during this period as Daily Wager Messengers.

This amply proved that these workmen were engaged in the department of telecommunications as daily wagers from 1996 to 1998 and they have worked for 240 days during 1996, 1997 and 1998. Thereafter they have been disengaged.

It was submitted from the side of the management that in view of judgment of Hon'ble Apex Court in 1995 ATC 414 the provisions of ID Act, 1947 shall not apply to the government servants. Even if they are under definition of workmen.

It was also submitted that the department of telecommunication is not governed under the ID Act, 1947 in view of the judgment of 1998 ATC 414, 1994(27) ATC 84 the jurisdiction lies with the Central Administrative Tribunal.

My attention was also drawn to JT 1996 (2) SC 455 that the appointment of Daily Wagers are not the appointment to a post according to the rules and cannot be given any protection to reengage such persons in any work or to appoint him or her against the existing vacancies. The law cited by the management is not applicable in view of the Constitution Bench judgment (1978) 3 SCR 207. It still holds the field so far as definition of 2 J of ID is concerned. The Hon'ble Apex Court in that judgment has laid down triple tests and in the light of these tests it is to be ascertained whether the respondent is an Industry or not.

It has been held in Bangalore Water Supply that in an Industry there should be systematic activity and it should be organized by cooperation between the employer and the employees and it should be for production and/or distribution of goods and service calculated to satisfy human wants and wishes. It has been held that absence of profit motive or gainful objective is irrelevant. The true focus is functional and the decisive test is the nature of the activity with special emphasis on the employer and employee relations. If any organization is carrying on trade and business, it is not beyond the purview of Industrial activities.

In the instant case it has been stressed that CAT alone has jurisdiction and this Court/Tribunal lacks jurisdiction as the respondent is not an Industry and the workmen are not industrial workmen. It is admitted case of the management that the workmen are the casual labourers.

(1978) 3 SCR- Bangalore Water Supply is a Constitution Bench judgment. It is still holding the field in the matter of adjudication of this point.

It has been held in this case that Section 2(j) of the ID Act, 1947 which defines industry contains words of wide import as wide as the legislature could have possibly made them. The problem of what limitations could and should be reasonably read in interpreting the wide words

used in Section 2 (j) is far too policy oriented to be satisfactorily settled by judicial decisions. The parliament must step in and legislate in a manner which will leave no doubt as to its intention. That alone can afford a satisfactory solution to the question which has agitated and perplexed the judiciary at all levels.

In this judgment the Hon'ble Apex Court has laid down triple tests to ascertain whether a particular unit or undertaking is an Industry or not. It has been held in this case that where (i) systematic activity (ii) organized by cooperation between employer and employee 9th direct and substantial element is chimerical (iii) for the production and/or distribution of goods and services calculated to satisfy human wants and wishes not spiritual or religious, but inclusive of material things or services geared to celestial bliss e.g. making on a large scale Prasad or food. In the present case the workmen have been engaged by the respondent and they performed the assigned job for 3 years.

(b) Absence of profit motive or gainful objective is irrelevant be the venture in the public, joint private or other sector.

(c) The true focus is functional and the decisive test is the nature of the activity with special emphasis on the employer employee relations.

(d) If the organization is a trade or business it does not cease to be one because of philanthropy animating the undertaking.

Although section 2 (J) uses words of the widest amplitude in its two limbs, their meaning cannot be magnified to overreach itself.

The Hon'ble Apex Court has laid down further the dominant nature test. It has been held as follows:

"Where a complex of activities some of which qualify for exemption others not involves employees on the total undertaking some of whom are not workmen as in the University of Delhi case or some departments are not productive of goods and services if isolated, even then the predominant nature of the services and the integrated nature of the departments as explained in the Corporation of Nagpur will be the true test. The whole undertaking will be industry although those who are not workmen by definition may not benefit by the status.

Notwithstanding the previous clauses, sovereign functions, strictly understood (alone) qualify for exemption not the welfare activities of economic adventures undertaken by government or statutory bodies.

Even in departments discharging sovereign functions if there are units which are industries and they are substantially severable then they can be considered to come with section 2 (j).

The respondent's unit is engaged in telecommunication work. It is not a sovereign function. It has been held in the above case that even arsenal or artillery department is an industry. Industry is decided on the nature of work it is performing.

From perusal of the records it becomes quite evident that the respondent/management is engaged in a systematic human activities. The respondents are not discharging duties for gains but gainful objective is irrelevant in deciding whether an undertaking is an industry or not. In case activities of the respondents are considered in the crucible of the triple tests, respondent is obviously and definitely an industry.

It is held that the department of telecommunication is an Industry. The Central government is the appropriate government. So the reference is quite appropriate. This Tribunal alone has jurisdiction to adjudicate the dispute of Industrial workers. The management is an Industry. It is run under the authority of the Central Government and Central Government is the appropriate government. So the point referred to by the Central Government is to be adjudicated by the Central Government Industrial Tribunals and not Central Administrative Tribunal. There is no merit in the contention of the management/respondent.

It was also submitted that these workmen have filed case in Civil Court so this case is barred of principles of res judicata. The Civil Court has not given any judgment after evidence of the parties. The case has been dismissed. Such orders do not operate as res judicata and it has been held by the Hon'ble Apex Court in a catena of cases that principles of res judicata should not be dragged in to industrial disputes. The reference is not barred by principles of res judicata and it is not bad on that ground.

My attention was drawn by the Ld. Counsel of the workman to 2000 LLR 523 State of UP and Rajender Singh. The Hon'ble Apex Court ordered for reinstatement with full back wages as the services of the daily wager cleaner who worked for 4 years was dispensed with without following the procedure for retrenchment. In the instant case also no retrenchment compensation has been paid. This case law squarely covers the instant case.

It has been held in 1978 Lab IC 1668 that in case service of a workman is terminated illegally the normal rule is to reinstate him with full back wages.

My attention was further drawn to AIR 2002 SC 1313. The Hon'ble Supreme Court has held that daily wager even if serving for a short period should be reinstated.

It was submitted from the side of the workman that in the instant case section 25 F, G of the ID Act are attracted. In Section 25 of the ID Act it has been provided that if a workman has performed 240 days work and if the work is of continuous and regular nature he should be given pay in lieu of notice and retrenchment compensation.

It has been held by the Hon'ble Apex Court that there is no cessation of service in case provisions of Section 25 F are not complied. In the instant case no compensation has been paid to the workmen who have continuously worked for 3 years.

It was further submitted that Section 25 T provides that the management should not indulge in unfair labour practice. Section 25 U provides that a person who commits any unfair labour practice will be punishable with imprisonment for a term which may extend to six months or with fine, which may extend to Rs. 1000 or with both. The intention of the legislature in enacting 25 T and 25 U is obvious. The legislature wanted that in case Casual and Badlis are engaged for a long period, it amounts to unfair labour practice. There is punitive clause for committing unfair labour practice.

It was submitted from the side of the workman that Vth Schedule of the ID Act specifies some practices as unfair labour practice. The Vth Schedule clause 10 provides the criteria for ascertaining unfair labour practice. It is extracted as hereunder:—

“To employ workman as Badlis, Casuals or temporaries and to continue them as such for years with the object of depriving them of the status and privilege of a permanent workman.”

Clause 10 of the Vth Schedule stipulates that in case the workmen are employed as Casuals, Badlis or Temporary and they are continued as such for years, it will amount to unfair labour practice. In the instant case the workman has been continued as casual and temporary for 8 years. It establishes to the hilt that the respondent management has committed unfair labour practice. The workman has been engaged for 8 years as casual and temporary and thereafter he has been removed. He has not been paid retrenchment compensation.

It was submitted that Section 25 F, G, T, U and Clause 10 of the Vth Schedule of the ID Act have been deliberately violated.

In the Constitution Bench Judgment of Uma Devi these matters were not at issue. In case a workman has worked for 3 years and the work is of continuous and regular nature he should be paid retrenchment compensation. In case retrenchment compensation is not paid Section 25 F of the ID Act is attracted. There is no cessation of his services. He is deemed continued in service in the eye of law. In case there is breach of Section 25 F the service is continued and reinstatement follows as a natural consequence.

ID Act, 1947 has been enacted to safeguard the interest of the workmen belonging to poor segment of society. It appears that legislature wanted that such workmen should not be harassed unnecessarily so Section 25 F, U, T and Clause 10 of Vth Schedule have

been enacted. The objects and reasons of ID Act, 1947 show that the respondent management should not be permitted to indulge in any unfair labour practice. The workman should not be engaged for years and then he should be removed all of a sudden. There is provision of retrenchment compensation for his removal. Retrenchment compensation is for compensating him otherwise so that he can survive long interregnum of unemployment. In the instant case no retrenchment compensation has been paid.

It was submitted from the side of the management that the Hon'ble Apex Court in 2006 (4) Scale has put down a complete ban on regularisation and reinstatement. The Hon'ble Apex Court has held that employment can only be made on the basis of procedure established in that behalf envisaged by the Constitution. Equality of opportunity is the hallmark and the Constitution enshrines affirmative action to ensure that unequals are not treated equals. So public employment should be in terms of constitutional scheme.

It was further submitted that the Constitution Bench Judgment has afforded a right according to which the government is not precluded from making temporary appointments or engaging workers on daily wages.

The Hon'ble Apex Court has not declared the provision of ID Act un constitutional. The Government has got no license to make always appointment of daily wagers and to continue them for life time. Fixed term tenure appointments and temporary appointments cannot be the rule of public employment. At the time of making temporary appointments Articles 14, 16, 21, 23, 226 and 309 are enfringed. There is no constitutional mandate that the government is at liberty to go on giving fixed term appointments for the entire tenure of service of an employee.

No such Article of the Constitution has been pointed out under which the Government or Public Sector units can continue in necessarily to give temporary and fixed term appointments again and again. Since fixed term appointments and temporary appointments are not governed by any constitutional scheme, such a discretion will amount to vicious discrimination. The Government of Public Sector unit will go on resorting to the method pick and choose policy and give temporary and *ad hoc* appointments to their favourites and thus the principles of equality enshrined in the constitution will be given a go bye. Such is not the intent of the Hon'ble Apex Court. However, in this judgment the provisions of the ID Act governing the services of the workman have not been declared un-constitutional. Reinstatement is the remedy provided in the ID Act for breach of several provisions enumerated therein or for breach of service rules provided in various labour welfare legislations.

Section 11 A of the ID Act stipulates that in case the Tribunal is satisfied that the order of discharge or dismissal was not justified, it may, by its award, set aside the order of

discharge or dismissal and direct reinstatement of the workman on such terms and conditions, if any, as it thinks fit or give such other relief to the workman including the award of any lesser punishment in lieu of discharge or dismissal as the circumstance of the case may require. According to this benign provision this Tribunal/Court has the authority to set aside the order of discharge or dismissal and reinstate the workman on the terms and conditions as it thinks fit.

The Hon'ble Apex Court in 2006 (4) Scale has not annulled Section 11 A of the ID Act and the legislature has authorized this Tribunal to set aside dismissal or discharge on its consideration and direct reinstatement. The judgment cited by the management is not applicable in the facts and circumstances of the case.

A three Judges bench of the Hon'ble Apex Court has held in 1993 II - LLJ that termination of services affects the livelihood of not only of the employee but also of the dependents. So in case of illegal termination of service the workman should be reinstated.

It was further submitted by the management that the workman has been given fixed term appointment. It has been held in 2006 LLR 68 that termination in terms of appointment letter is justified. The Hon'ble Apex Court has held that the workman has not proved that the work is of continuing nature and it is still existing. So termination after the period of fixed term engagement has been held valid. In the instant case the work is still continuing. This case law is not applicable in the facts and circumstances of the present case.

My attention was drawn to 2006 LLR 68. The Hon'ble Apex Court has held that engagement and extension of services of the workman was for a specific period and hence termination is not illegal and the termination is in accordance to the provisions of 2 (oo)(bb). In this case also the Hon'ble Apex Court found that it is not proved that the work is of existing nature.

In (1997) 11 SCC 521 the Hon'ble Apex Court found the termination valid as the appointment was for specified period of two months.

Reinstatement should not be misconceived as regularization. By the order of reinstatement the *status quo ante* of the workman is restored. He is given back wages in order to compensate him for his illegal dis-engagement. This is a special remedy provided in ID Act and it has not been annulled and set aside by any judgment of the Hon'ble Apex Court. The provisions of the ID Act are still constitutional and they are to be given effect too.

In such cases the workman is reinstated with back wages and the respondents have every right, after payment of back wages and reinstatement, to retrench him validly following the principles of first come last go so that Section 25, G and H of the ID Act are not violated.

It was further submitted that payment of full back wages is not the natural consequence of the order of discharge or dismissal being set aside. It has been held in (2003) 6 SCC 141 that it is incumbent upon the labour court to decide the quantum of back wages. In the instant case the matter involved was a case of theft of large quantity of Aluminium Wire. Departmental inquiry was not conducted in accordance with the principles of natural justice so dismissal was found bad. In such circumstance the Hon'ble Apex Court held that the order for payment of full back wages was not justified if termination is set aside. In PCI Vs. Raj Kumar (2001) 2 SCC 54 the Hon'ble Apex Court upheld the 60% award of back wages of the Tribunal.

It has been further held in this case that payment of back wages having discretionary element involved it is to be dealt with the facts and circumstances of the case. No definite formula can be evolved.

It has been further held in this case that payment of back wages in its entirety is the statutory sanction. In (2003) 4 SCC 27 the Hon'ble Apex Court held that in view of delay in raising the dispute and initiating the proceedings back wages need not be allowed. In the instant case there is no delay at least on the part of the workman in raising the dispute.

In 2004 VIII AD SC 444 the Hon'ble Apex Court upheld the order of reinstatement with 25% back wages.

In 1978 Lab. IC 1968—three Judges Bench of the Hon'ble Apex Court held that payment of full back wages is the normal rule. In case services have been illegally terminated either by dismissal or discharge or retrenchment, in such circumstance the workman is entitled to full back wages except to the extent he was gainfully employed during the enforced idleness. In the instant case the workman was always ready to work but he was not permitted on account of invalid act of the employer.

In AIR 2002 SC 1313 the Hon'ble Apex Court reduced the back wages to 25%.

In 2005 IV AD SC 39—three Judges Bench of the Hon'ble Apex Court held that reinstatement with full back wages is justified. In this case the workman has performed more than 240 days work and he has been retrenched without payment of compensation and pay in lieu of notice.

It was submitted from the side of the management that reinstatement is not the only remedy. In such cases the workman may be given compensation. Section 11 A of the ID Act, 1947 provides that in case of dismissal or discharge is found illegal reinstatement should be ordered. It has been held in a catena of cases by the Hon'ble Apex Court that reinstatement with full back wages is the normal rule. The statute provides for reinstatement. In certain exceptional cases where the undertaking has been closed down or it has become sick there may be order for payment of compensation.

It transpires from perusal of the claim statement that it has not been specifically stated that the workmen are out of employment and they are not in gainful employment. They have prayed for full back wages but they have not proved that they have been out of employment for the long interregnum. However the management has not mentioned in the written statement that these workmen are employed in any establishment.

The workman Shri Surinder Kumar has expired during the pendency of this case and his wife Smt. Raj Kumari has been substituted as L/R.

It becomes quite obvious from the above discussions that the workmen S/Shri Sat Narain, Rajesh Dixit, Anil Kumar, Dharam Singh and Shri Hukam are entitled to reinstatement as they have not been paid retrenchment compensation as stipulated in Section 25 F of the ID Act. The work of distribution of telegram is an continuous and existing nature of work. There has been no cessation of their services.

So far as back wages are concerned the workmen have not taken definite case of unemployment. So 10% back wages will meet the ends of justice as discussed above.

The reference is replied thus.

The action of the department of telecommunication to retrench S/Shri Sat Narain, Rajesh Dixit, Anil Kumar, Dharam Singh and Shri Hukam without notice and payment of retrenchment compensation is neither valid nor justified. The 5 alive workmen are reinstated with 10% back wages. The management will make payment of Rs.1, 00, 000 (Rs. One Lakh) to Smt. Raj Kumari w/o. Late Shri Surender Kumar. The management should reinstate the 5 workmen above mentioned and pay them 10% arrears of back wages within 3 months from the publication of the award.

Award is given accordingly.

R. N. RAI, Presiding Officer

Date: 18-10-2006.

नई दिल्ली, 31 अक्टूबर, 2006

का.आ. 4492.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार साक्ष सेंट्रल रेलवे के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय हैदराबाद के पंचाट (संदर्भ संख्या 15/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 31-10-06 को प्राप्त हुआ था।

[सं. एल-41015/5/2006-आई.आर.(बी-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 31st October, 2006

S.O. 4492.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 15/2005)

of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of South Central Railway and their workman which was received by the Central Government on 31-10-2006.

[No. L-41015/5/2006-IR (B-I)]
AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD

Present: Shri T. Ramachandra Reddy,
Presiding Officer

Dated the 19th day of October, 2006

INDUSTRIAL DISPUTE L.C.I.D. No. 15/2005

Between:

Sri P. Yadagiri,
S/o Late Narayana,
R/o 15-7/1/A, Venkataraopet, Lothkunta,
Secunderabad. ...Petitioner

And

The Chief Work shop Manager,
South Central Railways,
Lallaguda, Secunderabad. ... Respondent

Appearances:

For the Petitioner M/s R. Yogender Singh, C.V.N.
Rama Krishna & B. Pavan
Kumar, Advocates

For the Respondent Ms. Vijaya Sagi, Advocate

AWARD

This is a claim petition filed by the Petitioner Sri P. Yadagiri, aged about 60 years under Section 2A(2) of Industrial Disputes Act, 1947 seeking the relief to set aside the order of removal from service dated 25-11-1992 issued by the Respondent, with all consequential benefits and with continuity of service.

2. It was taken in view of the judgment of the High Court of Andhra Pradesh reported in 1997 (3) LLJ Supplement, page 1141 in W.P. No. 8395 of 1989 dated 3-8-1995 between Sri U. Chinnappa and M/s. Cotton Corporation of India and two others.

3. The petitioner submitted that he was appointed as a carpenter in the Respondent organization in the year 1972 and that he worked by performing his duties to the satisfaction of his superior officers till 1987. During the year 1987 he was suffering with T.B.. As such, he was hospitalized and could not attend his duties regularly.

He was punished by withholding an increment for three years for his absence.

4. It is further submitted that during the year 1990 he could not attend his duties regularly due to his illness as such, he was removed w.e.f. 25-11-1992 after conducting an ex-parte enquiry. It is further submitted that he was seriously ill and under treatment in the Railway Hospital, Lallaguda during the year 1992 and that the Railway Hospital has issued medical certificates dated 6-8-92, 5-6-92 and 18-4-92. The petitioner was advised by the hospital for light duties. The mercy appeal filed by the petitioner was not considered. He also made a representation for compassionate pension which was turned down by the Respondent. It is further submitted that the action of the Respondent in removing the petitioner from service is arbitrary and illegal in violation of the principles of natural justice.

5. The Respondent filed counter denying the averments made in the petition and contended that Petitioner has filed this claim petition after a lapse of 11 years. It is contended that the Petitioner remained absent for 207 ½ days between 1-7-1986 to 30-6-1987 for which a major charge-sheet was issued. The Petitioner submitted his explanation before the enquiry authority stating that his wife was not well as such he could not attend to his duties. It is further submitted that the Petitioner neither obtained prior sanction of leave nor he informed regarding his absence to the administration. Further, the Petitioner has not filed the medical certificates before the Enquiry Officer. The Petitioner was punished withholding the increments for three years. It is further submitted that the Petitioner is again remained absent for 220 ½ days during the period from 1-11-1988 to 31-10-1989 for which he was imposed punishment of withholding stoppage of increment for three years. The Petitioner again remained absent unauthorisedly for a period of 212 days during the period from 1-11-1989 to 31-10-1990 for which major chargesheet was issued and after conducting due enquiry giving full opportunity to the Petitioner who was removed from service. The Petitioner was given time upto two years to attend the enquiry and the notice was kept on the notice board for two years. But the Petitioner did not attend the enquiry. The representation made by the Petitioner for grant of compassionate pension has been dismissed by the Respondent. The Petitioner has not preferred an appeal within 45 days and mercy appeal filed by him on 30-8-1993 was not considered.

6. The Petitioner filed a memo on 21-7-2006, not disputing the validity of domestic enquiry. Both the parties got marked the following documents at the time of arguments and argued the matter.

7. The Learned Counsel for the Petitioner contended that the Petitioner could not attend his duty on account of suffering from T.B. and that he has taken treatment from

the Respondent's hospital and removal of the Petitioner is illegal and arbitrary.

8. On the other hand the Learned Counsel for the Respondent contended that the Petitioner was in the habit of absenting himself unauthorisedly and he was suitably punished previously. The Petitioner was absent for the period from 1-11-1989 to 31-10-1990 for which a major charge sheet is issued and the enquiry was conducted giving ample opportunity to the Petitioner and further conducted that the Petitioner was absent during the enquiry and also subsequent to the period under chargesheet and further contended that the Petitioner has approached this tribunal after a lapse of more than 11 years and there is latches on the part of the Petitioner and the matter becomes stale. Documents filed by the Petitioner are as follows: EX.W1 and W2 are copies of medical certificates. EX. W3. is the copy of recommendation letter from medical officer. EX.W4 is the copy of removal order. EX.W5 is the copy of mercy appeal of Petitioner. EX.W6 is the ruling of compassionate pension. EX.W7 and W8 are copies of representations of Petitioner. EX. W9 is the copy of rejection order of Respondent for compassionate pension. Documents filed by the Respondent are as follows: EX.M 1 is the copy of chargesheet. EX.M2 is copy of reply to EX.M1. EX.M3 is the copy of letter imposing penalty on Petitioner. EX.M4 is the copy of representation for cancellation of EX.M3. EX.M5 is the letter showing reduction of penalty. EX.M6 is the 2nd chargesheet. EX.M7 is its reply. EX.M8 is the enquiry report. EX.M9 is the letter imposing penalty. EX.M10 is the 3rd chargesheet. EX.M11 is its reply. EX.M 12 is the acknowledgement of the notice to Petitioner. EX. M13 to M15 are the reminders to Enquiry Officer for enquiry. EX.M16 is the letter enclosed to enquiry report sent to Petitioner. EX.M17 and M18 are the notices for enquiry to Petitioner. EX.M 19 is the removal order. EX.M20 is the letter showing pasting of removal order of Petitioner on notice board.

9. The documents filed by the Respondent discloses that the Petitioner was issued a chargesheet for his alleged unauthorized absence for a period of 207 ½ days from 1-7-1986 to 30-6-1987. The Petitioner filed his explanation for the said chargesheet pleading that his wife was not well and that he has to look after his children, as such he could not attend his duties regularly. But, the Petitioner in the present petition has pleaded that on account of his suffering from T.B. he could not attend regularly for the period mentioned in the said chargesheet. It is not in dispute that he was punished for his unauthorized absence withholding increment for a period of 3 years. The Petitioner also preferred an appeal against the said punishment and on his appeal, allowed partly modifying the punishment to that of withholding of increment for six months as per EX.M5. Again the Petitioner was absented for a period of 220 ½ days between 1-11-1988 to 31-10-1989 for which a chargesheet was issued dated 27-11-1989. The Petitioner has filed his explanation as in EX.M7 stating that his wife is

suffering from epilepsy, as such he could not attend to his duties. After considering his explanation the enquiry was ordered and on the basis of enquiry report he was again punished withholding increments for a period of three years.

10. The Petitioner again absented unauthorisedly for 212 days from 1-11-1989 to 31-10-1990 for which a major chargesheet was issued. He filed explanation to the said chargesheet as in Ex.M 11 stating that his old parents and children fell sick at different dates, as such, he could not attend to his duties. The Petitioner was given several notices and reminders as in Ex.M13 to Ex.M16 by sending through registered post. But the Petitioner did not receive the same. The Enquiry Officer concluded his report stating that the charges against the Petitioner are proved. On the basis of the enquiry report the Petitioner was removed from service.

11. Admittedly the Petitioner has approached this tribunal after long time and it is evident that there are latches on the part of the Petitioner in approaching this tribunal. Further, the Petitioner was removed after conducting due enquiry and the Petitioner was given sufficient opportunity during the enquiry to participate and defend himself but the Petitioner did not attend enquiry inspite of issuing several notices and putting the notices on the notice board and further negligence on the part of the Petitioner is apparent that he did not enquire as to what happened to his explanation given to the chargesheet. The plea of the Petitioner that he could not attend due to T.B. is quite contrary to his plea taken before the enquiry. The causes before the enquiry are entirely different and that he pleaded that he could not attend on account of illness of his wife and parents and children. Further, the medical certificates produced by the Petitioner are not relevant for the period under the charge. The medical certificate is subsequent to the period under charge. Further, the Petitioner has not filed medical certificates before the Enquiry Officer to substantiate his claim that his absence is not unauthorised. The conduct on the part of the Petitioner that he was absent prior to the chargesheet as well as subsequent to the issue of the chargesheet and during the enquiry was taken into consideration and imposed the punishment of removal by the competent authority. The punishment imposed is proportionate to the gravity of the charge and I do not see any sufficient grounds to interfere with punishment.

12. The Learned Counsel for the Petitioner has brought to my notice that in the case of one Ahmed Ali, who was placed in a similar situation to that of the Petitioner was paid retirement benefits in pursuance of the orders by this Tribunal. As such the same may be applied to the Petitioner. The facts in the said case are entirely different and the retirement benefits are given by the Respondent in compliance with the award passed in that case. The orders in the said case are not relevant to the facts of the present case.

13. In view of the facts and circumstances of case, that there is negligence and latches on the part of the Petitioner in approaching this tribunal after long time and further the petitioner was removed after due enquiry following the principles of natural justice and the punishment is in consonance with the gravity of the charges. The petition is dismissed and the Petitioner is not entitled for any relief.

Award is passed accordingly. Transmit.

Dictated to Smt P. Phani Gowri, Personal Assistant, transcribed by her and corrected by me on this the 19th day of October, 2006.

T. RAMACHANDRA REDDY, Presiding Officer

Appendix of evidence.

Witnesses examined for the Petitioner Witnesses examined for the Respondent

NIL NIL

Documents marked for the Petitioner

Ex.W1: Copy of medical certificate dtd. 14.10.91
 Ex.W2: Copy of medical certificates dtd. 18.4.91, 6.8.92 & 5.6.92
 Ex.W3: Copy of recommendation letter from medical officer dtd. 27.10.92
 Ex.W4: Copy of removal order dtd. 21.11.92
 Ex.W5: Copy of mercy appeal of Petitioner dtd. 30.8.93
 Ex.W6: Copy of ruling on compassionate pension dtd. 9/12/95

Ex.W7: Copy of representation of Petitioner dtd. 9.9.03
 Ex.W8: Copy of representation of Petitioner dtd. 13.9.02
 Ex.W9: Copy of rejection order of Respondent for compassionate pension dt. 15.11.02

Documents marked for the Respondent

Ex.M1: Copy of charge sheet dtd. 1.8.87
 Ex.M2: Copy of explanation of Petitioner dtd. 17.8.87
 Ex.M3: Copy of Ir. imposing penalty dtd. 12-11-87
 Ex.M4: Copy of appeal filed against Ex.M3 dtd. 14.1.88
 Ex.M5: Copy of Ir. reducing penalty dtd. 26-2-88 Copy of 2nd charge sheet dtd. 27-11-89
 Ex.M6: Copy of 2nd charge sheet dtd. 27-11-89
 Ex.M7: Copy of Explanation to Ex. M6 dt. 8-12-89
 Ex.M8: Copy of enquiry report dtd. 6-2-90
 Ex.M9: Copy of Ir. imposing penalty dt. 28.2.90
 Ex.M10: Copy of 3rd charge sheet dtd. 23.11.90
 Ex.M11: Copy of reply to Ex.M10 ddt. 18.12.90
 Ex.M12: Copy of notice received dtd. 26.12.90
 Ex.M13: Copy of 1st reminder of Enquiry Officer dtd. 3.4.91
 Ex.M14: Copy of 1st reminder of Enquiry Officer dtd. 8.5.91

Ex. M15: Copy of 1st reminder of Enquiry Officer dtd. 20-6-91

Ex. M16: Copy of Ir. No. El/WEP/64490 dtd. 28.9.92

Ex. M17: Copy of Ir. No. CE/5 dtd. 30.10.91 by Enquiry Officer to Petitioner

Ex. M18: Copy of Ir. No. CE/5 dtd. 20.11.91 by Enquiry Officer to Petitioner

Ex. M19: Copy of Ir. imposing penalty dtd. 21.11.92

Ex. M20: Copy of Ir. indicating pasting of Ex. M 19 in the notice board dtd. 24.11.92

नई दिल्ली, 31 अक्टूबर, 2006

का.आ. 4493.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार साउर्डर रेलवे के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एनाकूलम के पंचाट (संदर्भ संख्या एल सी आई डी 169/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 31-10-2006 को प्राप्त हुआ था।

[सं. एल-41011/11/97-आई.आर.(बी-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 31st October, 2006

S.O. 4493.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award 169/2006) of the Central Government Industrial Tribunal-cum-Labour Court, Ernakulam as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Southern Railway and their workman which was received by the Central Government on 31-10-2006.

[No. L-41011/11/97-IR (B-I)]

AJAY KUMAR, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT ERNAKULAM

PRESENT:

Shri P.L. Norbert, B.A. L.L.B., Presiding Officer
(Friday the 13th day of October, 2006/21st Asvina, 1928)

I. D. 169/2006

(I.D. 17/298 of Labour Court Ernakulam)

Workman/Union : The General Secretary
Dakshina Railway Casual Labour Union,
Edappally North,
Kochi-24.

Management

The General Manager
Southern Railway
Chennai

Adv. Shri M. C. Cherian

AWARD

This is a reference made by Central Government under Section 10 (1)(d) of Industrial Disputes Act, 1947 for adjudication. The reference is :—

“Whether the action of the management of General Manager, Southern Railway, Madras in not regularizing the services of Shri K.B. Gopinathan and 162 other workers/casual labourers as per enclosed annexure who have put in more than 360 working days as on 31-12-84 in terms of the judgement of Hon’ble Supreme Court of India W.P. No. 147, 320-69, 454, 4335-4434 of 1983 etc. is just, proper and legal ? If not, to what relief all these 163 workmen are entitled to.”

2. According to the union, the members of the union were engaged as casual labourers by permanent way inspectors and worked as such for 2 to 4 years in the Railway. Thus the members of the union had worked for more than 360 days continuously and they were eligible to be absorbed as early as in 1986. But they were disengaged without any reason. Many junior casual labourers were engaged subsequently by the Railway. All the 161 members of the union who were casual labourers in the Railway are entitled to be reinstated with all benefits. According to the Management some of the workers were engaged in 1981 and other in 1984. As per the decision in Indrapal Yadav’s case the casual labourers who were engaged in project work and were in service as on 1-1-1981 and fulfilled other conditions like completion of 360 days of service alone are entitled to temporary status. However, the decision does not envisage absorption of casual labour. Regular absorption is made from the list in the live register of casual labourers maintained by the Railway. The persons who are not in the live register cannot be considered for absorption. Some of the members of the union are in the list of live register. But many others’ names are not there in the live register. There is long delay in making the claim for absorption. The claim is time-barred. Due to long lapse of time it has become impossible for the Railway to verify the old service details. The union which has raised the dispute is not a recognized union. There is non-joinder and misjoinder of parties. There is misjoinder of causes of action as well. The workers mentioned in the claim statement are not entitled to get any relief.

3. When the matter came up for evidence the union remained absent continuously and there was no representation. The management alone was present. Though it is mentioned in the claim statement that there are 161 casual labourers who were affected and were seeking relief no one turned up to tender evidence. The union

representative as well as the counsel were also absent. This is a case of 1998. The case was transferred from the State Labour Court to this court in September, 2006. The union as well as workers seem to be not interested in the matter. A dispute that has been pending for the last 8 years cannot be adjourned indefinitely. It has to be presumed that there is no subsisting dispute.

4. In the result, an award is passed finding that the action of the management in not regularizing the service of the workers is legal and proper No Cost. The award will take effect one month after its publication by the Government.

Dictated to the Personal Assistant, transcribed and typed by her corrected and passed by me on this the 13th day of October, 2006.

P. L. NORBERT, Presiding Officer

APPENDIX : NIL.

नई दिल्ली, 31 अक्टूबर, 2006

का.आ. 4494.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार स्टेट बैंक आफ इंडिया के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण लखनऊ के पंचाट (संदर्भ संख्या 161/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 31-10-06 को प्राप्त हुआ था।

[सं. एल-12012/19/2000-आई.आर.(बी-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 31st October, 2006

S.O. 4494.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (161/2000) of the Central Government Industrial Tribunal-cum-Labour Court, Lucknow now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of State Bank of India and their workman which was received by the Central Government on 31-10-2006.

[No. L-12012/19/2000-IR (B-I)]

AJAY KUMAR, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, LUCKNOW

PRESENT:

SHRIKANT SHUKLA, Presiding Officer

I.D. No. 161/2000

Ref. No. L-12012/19/2000/IR (B-I) Dt. 10-10-2000

BETWEEN

Sh. R.S. Chaudhari and 4 others
Agriculture Development Branch
SBI, Pharenda, Maharajganj (U.P.)

AND

The Dy. General Manager,
State Bank of India
Zonal Office,
Gorakhpur-273001

AWARD

The Government of India, Ministry of Labour, New Delhi referred the following dispute for adjudication *vide* No. L-12012/19/2000-IR (B-I) dated 10-10-2000 to the Presiding Officer, CGIT-cum-Labour Court, Lucknow:

"Whether the action of the management of State Bank of India in undertaking a change of service conditions in respect of Shri R.S. Chaudhari and & others contrary to the provisions of the appointment and carrier progression thereafter is just and legal ? in case, it is not so, to what relief they are entitled to?"

Sarvashri R.S. Chaudhari, Vipin Behari Srivastava, Ravikant Shahi, Uma Shankar Singh, DM Chaudhari, Khaderu Prasad & Ram Rati Nayak has filed the statement of claim alleging therein that there is separate cadre and Agricultural Asstt. with that of clerical cadre on the general side known as clerk-cum-cashier/clerk-cum-typing introduced by the management of the opposite party in the year 1969. For the cadre of Agricultural Asstt. Minimum qualification prescribed was B.Sc (Agriculture) and for the cadre general side minimum qualification was high school. For Agricultural Asstt. a separate promotion policy was formulated in the year 1975 and since then the promotion policy remained in existence prior to merging of cadre with the general side cadre. Prior to the year 1975, the Agricultural Asstt. & general clerical side was promoted in the manner as follows :

Agricultural Asstt.

1. Trainee Rural Development Officer (Agriculture) Gr. I
2. Technical Officer (Asstt.)

General Clerical cadre

1. Officer grade II/I

Subsequently in the year 1979 the Executive Committee of the Central Board of SBI, opposite party created, a cadre of Rural Development Officer & directed that the technical officers (Agriculture) will be designated as Rural Development Officers Gr. II and Grade I. It is pointed out that the Agricultural Asstt. were not required to pass examination known as CAIIB which was essential on the post of general side cadre.

This examination is mainly based on accounting and clerical side of the banking business which Agricultural Assistants as per their services conditions, are not required to appear in such examination. Facts in this that they did not handle the work of accountancy etc. because of the nature of their job. Whenever an officiating chance on the general cadre side namely teller or cash officer, occurred at the branch Agricultural Assistants, posted at the same

branch, having even much, seniority over the staff of general side of the branch were not given chance even to officials. Thus Agricultural Assts. Have no opportunity to work on any job of the general side cadre posts at any occasion by the working policy.

Subsequently, on the recommendation of Pillai Committee. In the year 1979 different grades of the officers on the post of Rural Development Officers on the post of Rural Development Officers Grade I & II were unfilled into the combined Grade and were placed in one grade known as Junior Management Grade I officer, although their designation continued as Rural Development Officer. However, Rural Development Officers were, thereafter used to be known as Junoir Management Grade Scale I officer.

In this connection it is necessary to state the post of Rural Development Officer are filled up by three modes;

One mode is the direct recruitment for the post being holder of degree in Agriculture with certain experience. And the second mode is by promotion on the basis of merit from the, agricultural Assistants and the third mode is promotion from amongst Agricultural Assts. with eight years experience on the basis of seniority-cum-merit on circle level.

The persons, who are appointed by the aforesaid first mode are designated as Rural Development Officers, the persons, who are promoted by the second mode from Agricultural Assistants are designated as Trainee Rural Development Officers and they are required to undergo training for a period of two years. The persons, who are promoted by third mode from the post of Agricultural Assistants having eight years experience service are straightway designated as Rural Development Officers. But after appointment either through direct appointment or by promotion by any mode they are placed into the same cadre of Rural Development Officer.

In the year 1984, no doubt option was offered by the Management of the State Bank of India to Rural Development Officers (hereinafter called R.D.O) to switch over from the cadre of specialised side of Agriculture to the general side for the purpose of getting chance of promotion to the next higher grade i.e. in the Middle Management Grade II in the general side and on that basis some took the option when they found the promotional channel on the agriculture side quite stagnant in their cadre since pretty long time. But this change over by some Agricultural Assistants under the suffocating circumstances, because of stagnation in the field of promotion, cannot be made as an excuse for formulating a policy for bringing change in basic conditions of service of the Agricultural Assistants working on the technical side or the management.

As consequence of the exercise if the above for change of cadre opted by R. D. Os' several posts of R.D.Os' fell vacant and are still vacant although the applicants/workman and other Agricultural Assistants

working in other zones of the Management of the opposite party are eligible for promotion to those posts, but these post remained unfilled despite resentment by Agricultural Assistants.

Management of the opposite party in an arbitrary manner, has reached an agreement in consultation with the All India State Bank Officers Federation and All India state Bank Staff Federation. In its meeting dated 22-11-1986 by which, it was decided to discontinue the rule of promotion to the post of R.D. Os and Trainee R.D.Os. from the Agricultural Assistant and it was further arrived at, that posts shall be now filled by junior management grade scale I Officer of the General side. It was also decided that such of those Agricultural Assistants who want promotion, may take advantage by appearing in examination alongwith those in the general side for higher post of Jr. Management Grade Scale I by competing the test alongwith clerks-cum-cashier/clerk-cum-typist.

In aforesaid manner State Bank of India evolved an illegal policy on the basis of consultation with the above said two federations viz. All India State Bank Officers Federation and All India State Bank staff Federation deciding not to fillup the posts of Rural Development Officers/trainee Rural Development officers by way of appointment or promotion but opened the door for posting of people of general cadre to the said posts of Rural Development Officers Trainee Rural Development officers in complete violation of the statutory rules which was laid down by the opposite party in the year 1979 of filling the posts of Rural Development Officers/Trainee Rural Development Officers. No arrangement can be made in violation of statutory rules. It is an void ab initio agreement and a nullity in the eye of law.

In this connection it is stated that in the aforesaid meeting of 22nd Nov.1986 there was no representative present from the Agricultural Assistants, specialised side of the Bank's Agricultural side. The action was taken without hearing the Agricultural Assistants and without affording opportunity to them to have their say and place their point of view.

By the decision taken by the management of the opposite party on the basis of said meeting the service conditions of applicants workmen have been completely changed and they have been placed in great disadvantage. The service conditions existing at the time of applicants applied was the main consideration under which the applicants tempted and appeared at the test and competed the examination even after resigning from the post of Field 'Assistant akin to the post of Agricultural Assistants in Regional Rural Bank with a hope to get better prospects in the management of opposite party.

By the change of service conditions applicants will now have to appear in one part or both parts of the Banking Examination known as CAIIB Examination. As the

applicants workmen have no experience in accountancy etc. thus the clerks on the general side will have edge over the applicants workmen.

Management of the opposite party is not vested with such powers of altering and changing the initial service conditions of the applicant workmen without extending the opportunity for hearing. If, at all any change was to be brought in the service conditions they would have been given opportunity of hearing, before bringing any sort, of change. More so the ground on the basis of which the changes have been brought in their service conditions retrospectively are illegal and arbitrary. It is in violation of the Article 14 & 16 of the constitution of India.

So called promotional opportunities given to the applicants workmen and other Agricultural Assts. working in the management of the opposite party alongwith the general class are wholly arbitrary and thus infringes the constitutional provisions enshrined in the constitution of India.

The Agricultural Assistants being on specialised side of Agricultural business of the bank have suffered even in the case of officiating chanceoccassioned at the branches on the post of Teller or Area Manager (Cash). They were never given chance despite the fact that they had been senior amongst the clerical staff working at the branch on the ground that they are not on the general side banking. On the matter or transfer policy too the management never considered at part with the general cadre.

The change in condition of service was brought by the letter of management dt. 15-8-87 with a view to deprive the right of Agricultural Assistants from promotion to the post of Rural Development Officers/Trainee Rural Development Officers in an arbitrary manner, on the vacancies already existing in the management.

The decision taken in the meeting held on 22-11-86 between the management of opposite party and the said federations viz. All India State Bank Officers Federation. All India State Bank Staff Federation is not an agreement in the eye of law for two reasons i.e;

(a) The applicants workmen were not given opportunity of hearing and nor even a single representative of the cadre from Agricultural Assistants was present.

(b) It is not a registered agreement under the provisions of Industrial Disputes Act.

No law, on agreement or contract could be violative of statutory and mandatory provisions law. In fact the agreement was void ab-initio, inoperative and nullity in the eye of law. It adversely affects the fundamental rights and other service regulations of the applicants workmen. Hence the action of the management of opposite party in undertaking a change of service conditions in respect of a applicants workmen is contrary to the provisions of

appointment conditions and career progression and is illegal, arbitrary. Coercive and adversely affecting.

It has therefore been prayed that service conditions of the workmen existing prior to 22-11-86 and 15-9-87, the date of issuing the order be restored and promotional channel existing at the time of their appointment be ordered to be implemented, providing opportunity for promotion on the existing vacancies in their cadre.

The management has denied the claim. The management has in their written statement, stated that workmen concerned want that the Tribunal should take cognizance of the dispute in respect of incumbents other than the concerned workmen although no such dispute has been accrued by the appropriate or Central Govt. to this Tribunal as the dispute has been referred to in respect of 5 workmen. Accordingly the allegations made are misconceived and concerned workmen have no right to espouse the alleged caused on their own. They have also not given necessary facts about there being elected representative of the trade union recognized by the board of management.

It is stated that with a view to extending the area of banking operation in rural areas it was thought proper to engage personals and officers even from State Government departments on deputation. Accordingly, the bank management started recruiting Agriculture Specialist in clerical as well as in officers cadre and further with a view to providing scope for career progression to the clerical staff tests were conducted exclusively for promoting Agriculture Assistant to the posts of Rural Development Officer and Trainee Rural Development Officer, which in short are known as 'RDO' and 'TRDO' respectively in addition to having direct recruitment of RDOS. However, by 1985-86 it was felt that even the general cadre employee other than Agriculture Assistants, as well as, officers have acquired sufficient exposure to Agriculture Rural Sector, the bank therefore stopped the practice of posting RDOs at the branches and they were posted at only administrative offices with a view to assisting in formulating policy/scheme etc. in the area of Agriculture Financing, as a result of above position the requirement of RDOs was reduced drastically. The bank decided in consultation with All India State Bank Officers Federation and All India State Bank of India Staff Federation which will be referred to hereinafter as Officers Federation and Staff Federation respectively. to do away with the scheme of promotion of Agricultural Assistants to the posts of RDO and TRDO. Accordingly. Resolution was passed by the Executive Committee of the Central Board of the bank on 7-8-87. With a view to providing Career progression the bank Administration thought it proper to allow the Agriculture Assistants to compete with other Assistants in clerical cadre for promotion to the officers grade in general category. It may pertinently be stated here that the pay scale in the clerical cadre which included Agriculture assistants was the same.

Further, all the graduates appointed in the bank in clerical cadre including Agriculture Assistants were granted 2 additional increments as graduation allowance. Special allowance was also admissible in clerical cadre including Agricultural Assistant in accordance to their performing specialised/skilled jobs related to their post as in case of Stenographer. It may also be stated that the promotional avenues for the Agriculture Assistants were limited and promotion upto the maximum of staff officers grade III pay scale was permissible as an adhoc policy while on the regular or general clerical cadre promotions upto scale above scale III was permissible. Thus, there would have been stagnation of the incumbents on Agriculture side which included Agriculture Assistants. RDOs and TRDOs.

In view of the above position and giving better, avenues and opportunity to the Agriculture Assistants. RDOs and TRDOs, the Executive Committee of the Central board of the bank in consultation with the officers Federation and staff federation resolved on 7-8-87 to away with the scheme of promotion of Agriculture Assistants to the posts of RDOs and TRDOs. Though opportunity compete with the incumbents in general clerical cadre was given to Agriculture Assistants in the year 1986 for Trainee Officers which was availed also by the Agriculture Assistants. The Trainee Officers of that time are now known as Junior Management Grade scale I officers. The Agriculture Assistants were promoted to the posts of TRDO scale II and then RDO equivalent to Junior Management Grade scale I officers. It was a special opportunity especially given to Agriculture Assistants in the then prevailing circumstances and the said scheme was abolished by the board of management in exercise of power and jurisdiction conferred under the provisions of the State Bank of India Officers service Rules which were framed or made in exercise of powers conferred by sub-section (1) of Section 43 of the State Bank of India Act, 1955.

In view of aforesaid facts and circumstances it may be seen that nothing was done in contravention to any provisions of the appointment of Rules. As a model employer the bank management has enlarged the promotion avenues for the concerned workmen and the service conditions of the workman have not been changed nor the alleged change has in any manner deprived the workmen of future promotions. It may also be stated here that Rules 14 (i) and 17 of the aforesaid Service Rules are applicable which have a statutory force and have not been struck down by any court of law.

Moreover, the complainants are guilty of delay and laches in raising the instant dispute after a lapse of more than 13 years.

Management of the Bank has also submitted that similar subject matter or dispute was raised before Hon'ble High Court, Patna and Hon'ble Supreme Court has decided

against the workman and Hon'ble Courts have not struck down the existing policy of the Bank in this regard. Thus the policy of the Bank stood upheld as the concerned workman have stated before Asstt. Labour Commissioner (C) Allahabad in I.D. case No. 45(12/99) raised R.S. Chaudhary & others 4 out of which present proceeding has arisen. It is also submitted that the claim suffers from misjoinder & non-joinder of necessary parties.

In the rejoinder the one of the workman namely RS Chaudhary has stated that the matter involved before the Hon'ble High Court, Patna was not similar.

The workman have filed staff circulars No. 129, 174 of 1974, 122 of 1975, 66 of 1979, 205 of 1980, 18, 184, 212 of 1987, 24, 69, 70 of 1982, 157 of 1985. Besides letter of General Secretary of SBI Staff Union, Hyderabad circle dtd. 15-3-81 & Experience. Registration certificate of Sri B.B. Srivastava.

The workman have filed the affidavit of R.S. Chaudhary alongwith the copy of Representation dtd. 29-3-88 & the letter of some Agriculture Assistant & others. Report of recommendation committee. Worker B.B. Srivastava has also filed affidavit with letters of Basti Gramin Bank. Sri Nagendra Kumar Thakur has also filed affidavit. The management of SBI has filed following documents;

1. Bhatnagar committee report of 1983
2. Report of the meeting dt. 31-1-79.
3. Pillai Committee Recommendation.
4. Staff circular 129 of 1974, 174 of 1974. Format No. CS No. PR/48/87, Staff circulars 115, 156 of 72, 31 of 1974.
5. Application addressed to CGM signed by Agriculture Asstt. in Lucknow Division.
6. A copy of resolution passed by the Executive committee of Central Board held in meeting dated 7-8-1987 with copy of circular no. PER/IR/CIR 1999 dt. 15.9.87.
7. Agriculture circular No. 91 of 1978, 16 of 1979 54 of 1980. Agriculture No. 18 of 1981.

The management has also filed the affidavit of Chief Manager (Personnel & HRD). Management has also filed the judgement of Hon'ble High Court, Patna passed in civil writ no. 1103 of 1988 Umesh Kumar & Others vs. State Bank of India & others.

Heard the arguments of the parties & perused evidence on record carefully.

It is not disputed that Umesh Kumar and others Agriculture Asstt. In State Bank of India filed a civil writ petition in the Hon'ble High Court, Patna where in they challenge the legality of the decision contained in communication dt. 15-9-87 where by the purported decision of the executive committee of Central Board of State Bank of India dt. 7-8-87 had been circulated for compliance. According to the circular it was decided to discontinue the then existing system of promotion of Agriculture Asstt. to the post of Rural Development Officers/Training Rural

Development Officers. The Umesh Kumar & others prayed for issuance of direction to the respondent for consideration of their cases for promotion to the post of Rural Development Officers/Training Rural Development Officers on the basis of rule prevailing prior to the agreement dt. 22-11-86 arrived at between All India Bank Federation and State Bank of India. The grievance of the Agriculture Asstt. was that while they were expecting promotion against the vacancies of Rural Development Officers/Training Rural Development Officers they came to know that bank in arbitrary manner had entered into agreement with All India State Bank of India Officers Federation and All India State Bank of India Staff Federation 22-11-86 whereby it was decided to discontinue the rule of promotion to the post of Rural Development Officer/Trainee Rural Development Officers from the Agr. Asstt. and the said post now filled by Jr. Management Gr. I Officers. Umesh Kumar and others filed representation to Chief General Manager of the bank at Patna but no action was taken on the said representation on the other hand it is alleged that executive committee of Central board of bank affirmed the aforesaid agreement by communication dt. 15-9-87. It was further stated by the workers that the cadre which was created under the rules in the year 1979 is still in existence and the same had neither been superseded nor abolished nor merged with any other cadre. It was submitted by the workman that even if the said agreement is held to be legal still the posts of Rural Development Officers which has fallen vacant prior to the issuance of communication dt. 15-9-87 should at least be filled by way of promotion basis of 1979 cadre rule. In that connection reference was made to recommendation of the Bhatnagar Committee to show that the impugned decision of the bank is against the recommendation of the committee. According to the Agri. Asstt in that writ petition the same facts were narrated that the requisite qualification for recruitment of the general side and the technical side are quite different. Nature of examination for the purpose was different. In the said writ petition it was also stated that because of the decision the petitioner were placed under great disadvantage as they will now appear in one part or both parts of banking examination known as C.A.I.I.B. As the petitioners have got no experience of Accountancy etc. the clerk of general side will have edge over the petitioners.

On behalf of the workers Umesh Kumar and others workers assailed the decision of the bank merely on the following grounds:

(a) The impugned order stopping the promotional avenues of the Agricultural Assistants as R.D.Os is bad as the said order is based on an agreement entered into by the Bank with All India SBI Officers Federation to which the Agricultural Assistants were not a party and also on the ground that the same are unreasonable.

(b) The impugned order has taken away the legal right of the Agricultural Assistants for promotion and as

such the same is in violation of Articles 14 and 16 of the Constitution of India.

(c) The so called promotional opportunities given to the Agricultural Assistants along with the general clerks are wholly illusory and thus infringes the constitutional mandate enshrined in Articles 14 and 16 of the Constitution of India.

(d) The syllabus of examination prescribed under the eligibility criteria is discriminatory in as much as the same is against the technical qualification and experience of Agricultural Assistants and is an advantage to the clerks of the general side.

The bank is legally bound to fill up the vacancy to the posts of RDOs/Trainee RDOs which accrued prior to 15th of Sept. 1987 from amongst the Agricultural Assistants.

The following extract of the judgement of Hon'ble High Court is quoted which are relevant to the facts of the case :

“Para 15. The attention of the court has been drawn to a circular of the bank dt. 9-1-75 which provides eligibility criteria and procedure for appointment of Trainee Officers (Agricultural). According to the said circular, a separate cadre of trainee officers (Agricultural) was created to be filled by promotions of eligible Agricultural Asstt. is the direction of Reserve Bank of India, to all the commercial banks including the respondent bank for deployment of at least one Agricultural field officer qualified or trained in Agricultural Financing at each branch of the bank. Another circular by Reserve Bank of India dt. 23-3-85 asking banks to give preference to graduates in agriculture for being appointed as Agricultural Field officers.

Para 16. The grievance of the petitioners is also with regard to the eligibility criteria mentioned in the circular dt. 26-6-87 which provides, inter alia for promotional opportunities to Agricultural Assistants who satisfy the eligibility norms and appear in the written test for appointment as Trainee Officers and promotion Jr. Management cadre scale I officers in the general cadre.

Para 17. The eligibility criteria is indicated below: There are two modes of promotions from clerical Grade: One as Trainee Officer, and the other as Jr. Management Grade, scale I, Officer. For appointment/promotion as trainee officer, the conditions precedent are that :

1. For graduates, they must have put in four years service and must have passed part I of the Institute of Bankers Examination and for non-graduate including matriculates, they must have passed both parts of the Institute of Banker's examination. The appointment shall be on the result of limited competitive test in two papers, namely, general knowledge and banking. The details of the syllabus for written examination in banking are given at pages 143 and 145 of the reference book on staff matter. Vol. II

Must not be over 35 years of age.

Para 18. According to the petitioners, the Agricultural Assistants, who are graduates in the agriculture would be debarred from appearing at the said departmental examination for appointment/promotion as trainee officers, for their not having passed part I of the Institute of Bankers examination. According to the learned counsel appearing on behalf of the petitioners, passing of the aforesaid Bankers Examination was not a condition precedent for appointment of the Petitioners as Agricultural Assistants. Similarly so far as the next mode of promotion to the Jr. Management Gr. Scale I is concerned the eligibility criteria are balanced against them as the syllabus of the written test relates to banking process and the petitioners would have little chance of competing with their counterparts, namely the clerks of the general side. The main plank of the argument of the learned counsel for the petitioners is that the Agricultural Assistants are not only affected, due to the aforesaid criterias fixed by the bank but rather debarred from any promotion on the general side either as Trainee Officer or as a junior management Gr. Scale I Officer. According to his contention, the promotional avenues bestowed to the Agricultural Assistants are illusory and in fact actually nil.

Para 19. Sri Mukherjee Learned Counsel for the petitioners submitted that the aforesaid merging of cadre of Agricultural Assistants with that of the clerks of the general cadre amounted to taking away the promotional opportunities of the Agricultural Assistants to the posts of RDO/Trainee RDOs and is legal, discriminatory and unreasonable in as much as the source of appointment of the clerks in the general cadre, their qualifications and duties are different from those of the Agricultural Assistants. According to Mukherjee these two unequal can not be treated as equals particularly, when no consent had been taken from the Agricultural Assistants. He laid stress on the point that both are separate and distinct. He has placed reliance upon a decision of Supreme Court in the case of Daya Nand Jha Vs. Lalit Narain Mithila University reported in AIR 1986 S.C. 1200. In the aforesaid case legality of the order of transfer of a principal of a college by the Vice-Chancellor of the University under Section 10(4) of the Bihar State University Act, 1976 to the post of reader in another college was under challenge. The question that fell for consideration was the meaning of the word "Equivalent post." The Supreme Court held that the post of principal and reader can not be regarded as to equal status and responsibilities. The true criteria for equivalence is the status, nature, responsibilities and duties attached to the two posts. In my view the aforesaid decision does not help the petitioners in any way. The other decision relied upon by Mr. Mukherjee to support his contention that the majority of the staff cannot thwart away or barter the rights of the petitioners is reported in AIR 1986 S.C. 1830 (Reserve Bank of India and others Vs. C. N. Sahasranaman

and others). In the aforesaid decision the Supreme Court upheld that the majority of the employees cannot trample upon the constitutional guarantee of rights of the individual or minority employees. The Supreme Court however held that in judging the content of the constitutional rights, the entire perspective of equality of opportunity and denial of equal right in public employment have to be viewed in a fair, reasonable and just perspective. It was further held that at times there may be individual instance exemplifying injustice by postponing or delaying the chances of promotions of individuals. The Supreme Court observed that with whatever care and objectivity or foresight any rule is framed, some hardship, inconvenience or injustice might result but the paramount consideration is the reconciliation of the conflicting claims. The Supreme Court held that in service jurisprudence there cannot be any service rule which would satisfy each and every employee and its constitutionality has to be judged by considering whether it is fair, and reasonable and does justice to the majority of the employees and fortunes of some individuals is not the touchstone. The Supreme Court in the aforesaid judgement held that the scheme as modified by the bank and as accepted by the vast majority of their employees was a proper and just scheme and did not suffer from the vice of Articles 14 and 16 of the Constitution of India.

Para 20. Mr. Mukherjee has also cited the decision of the Supreme Court reported in A.I.R. 1988 S.C. 1033 (Raghunath Prasad Singh Vs. Secretary Home (Police) Department, Govt. of Bihar). In the aforesaid decision the apex court has held that provision for reasonable promotional opportunities generate efficiency in service while stagnation kills the desire to serve properly and makes the service effective. The Supreme Court directed the State Govt. to provide at least two promotional opportunities to the officers of the state Police in the wireless organisation within six months and in case the State failed to comply, it should give fresh opportunity for exercising option to revert the general police cadre. Similar is the decision of the Supreme Court in the case of Dr. Mrs. O. Z. Hussain Vs. Union of India, Reported in 1990(1) PL.J.R. 52(S.C.). The above mentioned decisions are of no avail to the Petitioners. Here there is no question of non-availability of promotional avenues to the petitioners. According to the impugned circular the Agricultural Assistants including the petitioners are eligible for promotion. There are promotional avenues for the petitioners. In as much as they along with the clerks of the general cadre are eligible for promotion to the posts of Jr. Management Officers through the channel of Trainee Officers. Thus, these decisions not support the contention of the petitioners that the eligibility criterias make the promotional avenues illusory. Moreover from the facts stated in the counter affidavit, it is evident that the R.D.Os were also discharging banking functions in the general line. The impugned decision on the other hand has widened the promotional

avenues of the Agricultural Assistants. The eligibility criteria, fixed for such appointment/promotion are in no way unreasonable arbitrary or discriminatory.

Para 21. To support, the contention that is bad in law on the ground of being unreasonable reliance has been placed on the decision of the Supreme Court in the case of Menka Gandhi Vs. Union of India, reported in 1978(1) SCC 248. In the aforesaid decision the Supreme Court has held that Article 14 of the Constitution strikes at arbitrariness in State's action and ensures an equality of treatment. The principle of reasonableness is an essential element of equality or non-arbitrariness. The action should be right, just and fair and not arbitrary, fanciful or oppressive. In the present case the action of the bank cannot be said to be unreasonable, arbitrary or unfair.

Hon'ble High Court in the judgement has referred the powers of the Banks and the Government and has referred various decisions of the Supreme Court. The extract of the Para 29 and 30 of the said judgement is material which is reproduced below.

Para 29. Reference was also made to the case of Reserve Bank of India Vs. C. T. Dige and others reported in AIR 1981 S.C.1899. In the said case the grievance related to the changes made in the service conditions affecting the chances of promotion of the applicants before the apex court. The Supreme Court held that it is well settled that a rule which affects the promotion of a person related to his condition of service, but is not so if it affects his chance of promotion only. It has further been held that alteration in condition of eligibility governing the employees belonging to a particular cadre can not amount to changing the condition of service of employees who belong to another cadre. The changes introduced may have an impact on the promotional prospects of the employees. But it can not be said that this would amount to changing their service conditions."

Para 30. The Supreme Court in the case of Reserve Bank of India Vs. N.C. Paliwal and others, reported in A.I.R. 1976 S.C. 2345 recognised that whenever the services are integrated some hardships are bound to result. The reasonable anticipation should be lied."

After considering the entire law on the point the Hon'ble High Court held that decision of the bank is a result of policy decision and the same is not arbitrary and unreasonable. The apprehension of the petitioners are not well founded. Hon'ble High Court has also held that it can not be said that promotional avenues of the Agricultural Assistants have been closed rather, in my view, the same have been widened. The eligibility criteria can not be said to be discriminatory, arbitrary or unreasonable and accordingly, the Hon'ble High Court, Patna dismissed the writ petition of the Agricultural Assistants. Umesh Kumar and others preferred a SLP in the Hon'ble Supreme Court of India bearing No. 18963/91 Umesh Kumar and others'.

Vs State Bank of India. Hon'ble Supreme Court dismissed the SLP on 20-1-1992. The judgement of the Hon'ble High Court has become final. There was no distinct matter before the Hon'ble High Court, Patna but the same facts were there and as such the judgement are binding in between the parties of this case also. I come to the conclusion that there is no change in the service conditions in respect of workman. As I come to the conclusion that the action of the management of State Bank of India is not unjust or illegal. The issue is therefore answered against the workers and the workers are not entitled to any relief.

Lucknow SHRIKANT SHUKLA, Presiding Officer
13-10-2006

नई दिल्ली, 31 अक्टूबर, 2006

का.आ. 4495.-औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) कीं धारा 17 के अनुसरण में, केन्द्रीय सरकार गोरखपुर क्षेत्रीय ग्रामीण बैंक के प्रबंधनतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण लखनऊ के पंचाट (संदर्भ संख्या 12/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 31-10-06 को प्राप्त हुआ था ।

[सं. एल-12012/230/2005-आई.आर.(बी-1)]
अजय कुमार, डेस्क अधिकारी

New Delhi, the 31st October, 2006

S.O. 4495.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 12/2006) of the Central Government Industrial Tribunal-cum-Labour Court, Lucknow now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Gorakhpur Kshetriya Gramin Bank and their workman which was received by the Central Government on 31-10-2006.

[No. L-12012/230/2005-1R (B-1)]

AJAY KUMAR, Desk Officer

ANNEXURE

**CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT LUCKNOW**

PRESENT:

SHRI KANT SHUKLA, Presiding Officer

I.D. 12/2006

Ref. No. L-12012/230/2005-IR(B-I) Dated 5-6-2006

BETWEEN:

Sri Ramkripal Prasad
Vill. Dharahania, P.O. Kothiwany
Via Bhatpar Rani, Tehsil Salempur
Distt. Deoria (U.P.)
Deoria

AND

The Chairman
 Gorakhpur Kshetriya Gramin Bank
 Head Office, Mohadipur, Gorakhpur
 Gorakhpur (U.P.)

AWARD

The Government of India, Ministry of Labour, New Delhi referred the following dispute No. L-12012/230/2005-TR (B-I) Dated 5-6-2006 to the Presiding Officer, CGIT-Cum-Labour Court, Lucknow for adjudication:

“ क्या प्रबन्धन गोरखपुर क्षेत्रीय ग्रामीण बैंक शाखा रतनपुर द्वारा श्री रामकृपाल प्रसाद दैनिक श्रमिक को दिनांक 4-4-84 को नौकरी से निकाला जाना न्यायोचित तथा न्यायसंगत है ? यदि नहीं तो कर्मकार किस अनुत्तर का अधिकारी है ? ”

Worker's case is that he worked as Peon and Watchman since 1-7-1979 to 9-4-1984 at Gorakhpur Gramin Bank, Ratanpur Branch, Gorakhpur and he was relieved by letter No 84/HG/22 dated 9-4-1984 but Head Office did not took any work, though he has been attending there. Worker has therefore requested for reinstatement with arrears of salary.

Worker has filed photo copies of following documents :

1. Application dt. 23-2-2006 addressed to Presiding Officer, CGIT-cum-Labour Court, Lucknow.
2. TA bill of Nov. 2004.
3. Letter dt. 9-4-1984 addressed to the worker in the nature of relieving him from duty wherein he has been address as part time Jamadar.
4. Certificate dt. 18-10-1985 certifying the worker as part time sweeper from 1979 to 9-4-1984
5. Term deposit of Rs. 33.70 dt. 3-12-1980.
6. Conciliation report of Asstt. Labour Commissioner (C) Allahabad dt. 8-11-2005.
7. Order passed in writ petition No. 13849/93 Ramkripal Prasad Vs Gorakhpur Gramin Bank, Mohadipur and others dt. 9-6-2005.
8. Copy of reference order.
9. Carbon copy of application of the worker addressed to Chairman, Purwanchal Gramin Bank, Mohadipur.

Opposite party has filed written statement stating therein that the Central Government vide its notification dt. 12-9-2005 has provided for amalgamation of Gorakhpur Kshetriya Gramin Bank and Basti Gramin Bank into a single Regional Rural Bank which is now called as Purvanchal Gramin Bank with its head office at Gorakhpur. It is further submitted that the reference is not maintainable and deserves to be rejected because no cause of action arose of alleged date of reference as mentioned in the matter of dispute dt. 4-4-1984 and also because that there is lapse of

22 years as such no industrial dispute was in existence at the time when the government referred the dispute for adjudication. It is further submitted that not giving work to part time daily wage is not termination and retrenchment. Admittedly workman had worked on part time daily wage basis and received payment without any objection. On the ground of delay itself matters of dispute is not maintainable. Knowingly worker had filed writ after 8 years of alleged cause of action and conciliation application after 22 years of alleged cause of action and on the basis of delay alone he is not entitled to get any relief and reference is bad in law. Hon'ble High Court has only given direction that in regard to reference of matters of dispute Labour Authority will not reject the application on ground of limitation but court has full jurisdiction to reject the stale claim of worker. Court can not go beyond scope of reference. Court has only jurisdiction to give its award on referred matters of dispute. Court can not travel beyond scope of reference. It is clarified that due to non availability of work his services were not required. Worker has taken certificate after approximately 18 months from the date of alleged termination. Worker was not employed against any permanent post nor Bank had any permanent post of sweepers/messengers at the relevant time. It is further submitted that bank was not required to preserve and maintain records relating to part time daily wager whose case has come forward after 22 years. It would be highly prejudicial for take to ask for such old records from them. The workman was only daily wager and he was entitled for payment of wage only for the days he has worked in the bank. Since he himself has stated that no work has been taken from, the question of payments of any wage had to be determined on the basis of his part time daily attendance has to be recorded at the branch he was engaged at. It is wrongly and malitiously stated that his attendance has been recorded at head office also. Lastly it is submitted that worker was a daily wager and his services were dispensed with in accordance with the terms of engagement and the necessity of the bank and hence the representation submitted by the worker is devoid of any merit and passed on grounds wholly untenable. The opposite party has therefore prayed that reference is bad in law and worker is not entitled to get any relief including reinstatement.

Rejoinder has been filed by the worker. In the worker's rejoinder he was paid on the daily wage basis. He has also alleged that his Provident Fund contribution was deducted and he was paid bonus also thus he has been working as regular worker.

Opposite party has filed photo copy of the following documents :

1. Government Notification dt. 6-1-1977 regarding recruitment qualification for staff in the Rural Banks.
2. Appointment of messenger in the Rural Banks dt. 27-9-1980.
3. Codified instructions of the Gorakhpur Gramin Bank

Worker has filed the affidavit in support of his case and opposite party filed affidavit of Sri Garish Chandra Srivastava alongwith following documents;

1. Letter of Sri Ambrish Sharma Asstt. Labour Commissioner (C) Allahabad dt. 4-8-2005.
2. Letter of Ram Kripal prasad to Asstt. Labour Commissioner (C) Allahabad dated nil.

Heard learned representative of the parties and per used the evidence on record.

It is admitted fact that the worker Ramkripal Prasad was employed in Ratanpur Branch of Gorakhpur Gramin Bank w.e.f. 1-7-1979 to 9-4-1984.

It is also admitted fact that the worker filed writ petition in Hon'ble High Court bearing no. 13849/93 Ramkripal Vs. Gorakhpur Gramin Bank, Mohadipur and others. It is also fact that Hon'ble High Court on 9-6-2005 passed following order;

"I have heard the learned counsel for the parties. The counsel for the petitioner submitted that as there are certain facts, relating to industrial disputes, involved in this writ petition, the petitioner wants to avail the remedy before the Labour Court. In view of the aforesaid facts, this writ petition is dismissed on the ground of alternative remedy. If the petitioner raises an industrial dispute before the competent authority Labour Court within fifteen days, the competent authority Labour court will decide the case on merits without taking into consideration the question of limitation. It is further provided that the Labour Court will decide the same within a period of three months thereafter."

It is also admitted fact that by the reference order the government has sought adjudication in respect of the termination dt. 4-4-1984 and this court has to adjudicate as to whether the termination dt. 4-4-1984 is justified and legal. If not then to what relief the workman is entitled to. But the facts coming before the court are contrary the worker was not terminated on 4-4-1984 instead he has been terminated on 9-4-1984 therefore whether this court can not adjudicate the reference as has been sent? is the question to be decided.

Learned representative of the opposite party has argued that it is established law that a dispute which is stale could not be subject matter of reference under Section 10 of the I.D. Act. It is submitted by him that worker was relieved from the work on 9-4-1984 he kept silent till 1993 i.e. for about 9 long years and all of a sudden he approached the Hon'ble High Court Allahabad & filed writ which was dismissed on 13-5-2005. Worker has stated in his evidence that he did not go to the bank branch where he was working since last 20 years. Worker has also admitted that the bank has appointed class IV employees after his termination. Worker has admitted in his evidence that he was paid Rs. 5 per day later on it was increased to Rs. 5. The argument is that the worker was daily wager and

was engaged in the bank in stop gap arrangement and as soon as the regular incumbent were appointed the worker Ramkripal Prasad was relieved to work on the regular worker to work. Since the Worker never wanted to work on the daily wage basis therefore he must have search fortune elsewhere. That is the reason he kept sitting for 9 years. The industrial dispute did not exist either in 1993 or on the date of reference order i.e. 5-6-2006. The learned representative of the opposite party relied his argument on 2000 (84) FLR 673 Supreme Court between The Nedungadi Bank Ltd. and K.P. Madhavankutty and others. The judgement is reproduced below:

"The Nedungadi Bank Ltd. (Bank for short) is the appellant. The Bank is aggrieved by the judgement dated Aug. 5, 1988 of the Division Bench of the Kerala High Court passed in writ appeal whereby it set aside the judgement of the learned single judge dt. Jan. 24, 1995 allowing the writ petition of the Bank and quashing the reference made by the Central Government under Section 10 of the I.D. Act. (For short the Act). The reference of the industrial dispute was as follows :

"Whether the action of the management of Nedungadi Bank Ltd. in dismissing Sri K. P. Madhavankutty from service w.e.f. 11-8-1972 is justified? If not, to what relief the workman concerned is entitled to?"

We may refer to circumstances which led the Central Government to make the reference. Respondent was working as a clerk with the Bank. He had put in ten years of service. Disciplinary proceedings were initiated against him for having misappropriated a sum of Rs. 1185 and falsifying the books of the Bank. After conclusion of the enquiry he was served with a memo dt. Oct. 13, 1972 to show cause as to why punishment of dismissal from service be not awarded to him in the light of grave misconduct proved against him. Respondent admitted his guilt and prayed for mercy. His plea was examined. However, considering the circumstances of the case he was dismissed from the service of the bank with effect from Aug. 11, 1972. Respondent filed appeal to the Board of Directors of the Bank. He admitted to have committed the misappropriation expressed unconditional regret and prayed that highest penalty of dismissal from service be not imposed on him. His appeal was dismissed by order dt. Jan. 30, 1973. The appellate authority was of the view that on consideration of the entire circumstances it was felt that in the interest of the bank it was not desirable to retain the respondent in the service of the Bank. The matter rested at that. Respondent got whatever benefits were due to him under the rules of the Bank.

Then after a period of about 7 years respondent served a notice on the Bank contending that he was discriminated as two other employees of the Bank under similar situation were reinstated in the service of the Bank. A notice was received by the Bank from the lawyer of the

respondent on Jan. 17, 1980 wherein it was demanded that respondent be reinstated. The ground was that two other employees, who were dismissed, were later reinstated. Respondent in the meanwhile filed an application before the State Govt. on May 24, 1979 under Section 10 of the Act. It was rejected by the State Government on the ground that appropriate Govt. in relation to the bank was the Central Government. On Oct. 31, 1980 respondent moved the Asstt. Labour Commissioner of the Central Govt. for relief, who by order dt. March 11, 1981 held that there was no scope for formal proceedings under the Act since petition in the High Court complaining that the Central Govt. did not pass any order in the matter on his application under Section 10 of the Act. High Court by its order directed the Asstt. Labour Commissioner to send his report under section 12(4) of the Act, to the Central Govt. In pursuance to the order of the High Court the Asstt. Labour Commissioner sent his report to the Central Govt. for consideration. Central Government declined to make any reference under section 10 of the Act by order dt. Jan. 1, 83. This led the respondent again to file a writ petition in the High Court which was disposed of by order dt. Nov. 14, 83 with a direction to Central Govt. to re-examine the matter. This order of High Court was challenged by the bank in writ appeal. The appellate bench by order dt. Feb. 21, 89 upheld the order of the learned single judge and observed as under:—

"The apprehension expressed by the learned counsel for the appellant is that the direction of the learned single Judge is capable of being interpreted as a command to the Central Government to make a reference under Section 10. It was also submitted that it is likely to be understood as conveying that the Central Government should not take into consideration all that has happened before the third respondent chose to set the industrial law into motion. We are inclined to take the view that there is no justification for this apprehension. The Central Government is required to examine as to whether an industrial dispute exists as on the date on which it is called upon to make the reference and as to whether, in the circumstances, it is expedient or not to make the reference. For this purpose it will be well within its right to examine the entire facts of the case, including the fact that third respondent admitted his guilt and only pleaded for merciful treatment and accepted the amount due to him in full satisfaction of his claim. All those factors have a bearing on the question as to whether in spite of all these the industrial dispute still subsist meriting reference and also in regard to the question as to whether it cannot be said that, in the circumstances, it is expedient to refer the dispute to the Tribunal. It is also well settled that the question of delay and of the claim being stale or belated are also relevant factors to be taken into consideration in the matter of making an appropriate reference. We have no doubt that the Central Government will consider all these aspects objectively and take a decision on the question as

to whether the dispute should be referred under Section 10 of the Act. Making the position clear as aforesaid, this appeal stands disposed of. No costs.

4. Now the Central Government made the reference which has been reproduced above. This time the Bank felt aggrieved and challenged the reference by filing writ petition, which by order dated January 24, 1995 was allowed by the learned single Judge and on appeal filed by the respondent Division Bench (sic) validity of the reference was upheld.

5. Law does not prescribe any time limit for the appropriate Government to exercise its power under Section 10 of the Act. It is not that this power can be exercised at any point of time and to revive matters which had since been settled. Power is to be exercised reasonably and in a rational manner. There appears to us to be no rational basis on which the Central Government has exercised powers in this case after lapse of about seven years of order dismissing the respondent from service. At the time reference was made no industrial dispute existed or could be even said to have been apprehended. A dispute which is stale could not be the subject matter of reference under Section 10 of the Act. As to when a dispute can be said to be stale would depend on the facts and circumstances of each case. When the matter has become final, it appears to us to be rather incongruous that the reference be made under Section 10 of the Act in the circumstances like the present one. In fact it could be said that there was no dispute pending at the time when the reference in question was made. The only ground advanced by the respondent was that two other employees who were dismissed from service were reinstated. Under what circumstances they were dismissed and subsequently reinstated is nowhere mentioned. Demand raised by the respondent for raising industrial dispute was ex-facie bad and incompetent.

6. In the present appeal it is not the case of the respondent that the disciplinary proceedings, which resulted in his dismissal, were in any way illegal or there was even any irregularity. He availed his remedy of appeal under the rules governing his conditions of service. It could not be said that in the circumstances industrial dispute did arise or was even apprehended after lapse of about seven years of the dismissal of the respondent. Whenever a workman raises some dispute it does not become industrial dispute and appropriate Government cannot in a mechanical fashion make the reference of the alleged dispute terming as industrial dispute. Central Government lacked power to make reference both on the ground of delay in involving the power under Section 10 of the Act and there being no industrial dispute existing or even apprehended. The purpose of reference is to keep industrial peace in an establishment. The present reference is destructive to the industrial peace and defeats the very object and purpose of the act. Bank was justified in thus moving the High Court seeking an order to quash the reference in question.

7. It was submitted by the respondent that once a reference has been made under Section 10 of the Act a Labour Court has to decide the same and High Court in writ jurisdiction cannot interfere in the proceedings of the Labour Court. That is not a correct proposition to state. An administrative order which does not take into consideration statutory requirements or travels outside that it is certainly subject to judicial review limited though it might be. High Court can exercise its powers under Article 226 of the Constitution to consider the question of very jurisdiction of the Labour Court. In National Engineering Industries Ltd. v. State of Rajasthan, this Court observed :—

“It will be thus seen that High Court has jurisdiction to entertain a writ petition when there is allegation that there is no industrial dispute and none apprehended which could be subject matter of reference for adjudication to the Industrial Tribunal under Section 10 of the Act. Here it is a question of jurisdiction of the industrial dispute, which could be examined by the High Court in its writ jurisdiction. It is the existence of the industrial dispute which would clothe the appropriate Government with power to make the reference and the Industrial Tribunal to adjudicate it. If there is no industrial dispute in existence or apprehended appropriate Government lacks power to make any reference.”

8. “We, therefore, allow the appeal, set aside the impugned judgment of the Division Bench and restore that of the learned single Judge. However, there shall be no order as to costs.”

The learned representative of opposite party has also relied on [2003(97)FLR 488] (Allahabad High Court) between Regional Manager, UPSRTC, Jhansi and Siddqkhan & another.

The facts of the said case law were that the worker was terminated on 31-3-76 and thereafter he was engaged in some other work. Industrial dispute raised after 15 years. Hon'ble High School held that when worker raised the dispute and reference was made no industrial dispute existed. Therefore, reference is bad. The Hon'ble High Court/relied on the Nedungadi Bank Ltd vs. K.P. Madhavankutty & others. Representative of the opposite party has argued that no industrial dispute existed in 1993 when the worker filed writ petition in the High Court and no industrial dispute existed on 5-6-2006 when the Government made the reference.

The representative of the opposite party has further argued that the worker was disengaged on 9-4-84 and the regular incumbent joined the service on 10-4-84. After more than 18 months at the instance of worker certificate regarding reemployment was issued on 18-10-85. From this it is evident that the worker was satisfied by the arrangement and he did not bother to contact the branch thereafter. Had the worker's services been terminated and he was aggrieved

with the same, he would have protested rather than seeking a experience certificate. Representative of the opposite party has relied on 2004 LLR 947 Delhi High Court Sh. Hamminder Pal Singh vs. Dashmesh Public School & another.

The representative of the opposite party has further argued that Labour Court or Tribunal cannot under law are authorized to open a chapter which stood closed on 18-10-85 when the worker obtained experience certificate and kept silence till 1993. He has relied on 1997(77) FLR 364 (Allahabad High Court) between R.K. Chaturvedi and Secretary, BHEL & others

It is settled law that the jurisdiction of Tribunal dispute is limited to the points specifically referred for its adjudication and the matters identical thereto and the Tribunal cannot go beyond the terms of reference.

The proved facts of the case are:

1. It is admitted fact that the worker was a daily wage earner.

2. It is further admitted that the worker worked during 1st July, 1979 to 9-4-84.

3. It is also admitted fact that contribution to the Provident Fund was deducted from 1980 to 1984.

4. It is also proved that the worker was a part time sweeper not a full timer.

5. It is also proved fact that no notice, compensation in lieu of notice or compensation as per rules were given to the worker.

6. It is not a case wherein there is a dispute of 240 days work in a calendar year proceeding the date of disengagement.

7. It is also admitted fact that Hon'ble High Court has directed the labour to decide the case on merits without taking into consideration the question of limitation.

In the circumstances the disengagement of the worker on 9-4-1984 was illegal and unjustified. Although the order referred to this court is to adjudicate the action of management in terminating the services of the worker on 4-4-1984. It is un-material in the present case as to what was exact date.

Worker has prayed for reinstatement back in the service. The worker has himself admitted that the regular incumbent has joined in his place. Worker himself was not a regular employee. The worker has stated in the cross-examination that the branch of Ratanpara came into existence on 1-7-1979. It appears in such circumstances stop gap arrangement was made by the branch to meet the immediate needs by employing the worker who was minor.

2005 Supreme Court Cases (L&S) 601 Haryana State Co-op. Land Development Bank vs. Neelam is relevant in the present context. In para 12 of the said case Hon'ble

Supreme Court has held "The industrial Courts like any other court must be held to have same discretion in the matter of grant of relief. There is no proposition of law that once an order of termination is held to be bad in law, irrespective of any other consideration the Labour Court would be bound to grant relief to the workman. The Industrial Disputes Act does not contain any provision which mandate the Industrial Court to grant relief in every case to the workman. The extent to which a relief can be molded will inevitably depend upon the facts and circumstances obtaining in each case. In the absence of any express provision contained in the statue in this behalf is not for the court to lay down a law which will have a universal application."

Hon'ble Supreme Court has further observed that "it is trite that the courts and tribunals having plenary jurisdiction have discretionary power to grant an appropriate relief to the parties. The aim and object of the Industrial Disputes Act may be to impart social justice to the workman but the same by itself would not mean that irrespective of his conduct a workman would automatically be entitled to relief. The procedural laws like estoppel, waiver and acquiescence are equally applicable to the industrial proceedings."

During the arguments the worker has sought reinstatement as regular worker. The worker, it appears, wants to gain back door entry in the bank service, whereas there is a huge number of unemployed youths waiting for their turn to get employment. The workman now cannot be imposed on the employer at the most the employer can be directed to compensate the worker by paying a lump sum amount of Rs. 12,500 in lieu of notice, compensation up to date within the period of one month after the publication of notice and receipt of notice with the award. In the default the worker shall be entitled to the interest at the rate of 8% per annum from the date the notice and award is received by the opposite party. Worker shall also be entitled for Provident Fund dues and the opposite party shall extend all cooperation of the said fund if not paid to the worker.

The worker was in the employment with the bank w.e.f. 1-7-79 to 9-4-85 continuously and his services could not have been retrenched without complying with the provisions of Section 25 F of the Industrial Disputes Act, 1947 which reads as under:

"25F. Conditions precedent to retrenchment of workmen—No workman employed in any industry who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until—

(a) the workman has been given one month's notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the workman has been paid in lieu of such notice; wages for the period of the notice;

- (b) the workman has been paid, at the time of retrenchment, compensation which shall be equivalent to fifteen days' average pay for every completed year of continuous service or any part thereof in excess of six months; and
- (c) notice in the prescribed manner is served on the appropriate Government for such authority as may be specified by the appropriate Government by notification in the official Gazette."

Since the worker has been in the continuous service of the bank from 1-7-79 to 9-4-85 therefore, the opposite party should have retrenched the worker after complying the provisions of Section 25 F mentioned above, therefore, his retrenchment without complying the provisions of Section 25 F was illegal and unjustified.

My conclusion is that the termination of the worker is illegal and unjustified. The workman is entitled to the compensation within the time framework as stated above, Award passed accordingly.

Lucknow SHRIKANT SHUKLA, Presiding Officer
13-10-2006

नई दिल्ली, 31 अक्टूबर, 2006

का.आ. 4496.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार नार्दन रेलवे के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकारण लखनऊ के पंचाट (संदर्भ संख्या 97/2003) द्वारा प्रकाशित करती है, जो केन्द्रीय सरकार को 31-10-2006 को प्राप्त हुआ था।

[सं. एल-41012/148/2003-आई आर (बी-1)]
अजय कुमार, डेस्क अधिकारी

New Delhi, the 31st October, 2006

S.O. 4496.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 97/2003) of the Central Government Industrial Tribunal/Labour Court, Lucknow now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Northern Railway and their workman which was received by the Central Government on 31-10-2006.

[No. L-41012/148/2003-IR (B-I)]

AJAY KUMAR, Desk Officer

ANNEXURE

**CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT, LUCKNOW
PRESENT:**

SHRIKANT SHUKLA, Presiding Officer

I. D. No. 97/2003

Ref. No. L-41012/148/2003-IR (B-I) dated 19-9-2003

Between :

The Divisional Orgn. Secretary,
Uttar Railway, Karmchari Union,
96/196, Old Ganeshganj,
Lucknow-226001

AND

The Dy. Chief Mechanical Engineer(W)
C & W Shop, Northern Railway,
Alambagh, Lucknow-226001

AWARD

The Government of India, Ministry of Labour, New Delhi referred the following dispute vide No. L-41012/148/2003/IR (B-I), Dated 19-9-2003 for adjudication to the Presiding Officer, CGIT-cum-Labour Court, Lucknow;

“क्या प्रबन्धन, उत्तर रेलवे, लखनऊ द्वारा कर्मकार नसीम खान पुत्र स्व. नासीम खान को बिना बचाव का अवसर दिये थे, 8-2-83 से नौकरी से निकाले जाने का दण्ड दिया जाना उचित तथा वैधानिक है? यदि नहीं तो कर्मकार किस अनुतोष का अधिकारी है?”

Trade Union's case is that worker Sri Naseem Khan, Auto Electrician was appointed since 19-11-79. It is submitted that the worker was sick since 11-5-81 and continued to remain sick till 30-6-85 and was under treatment of various Doctors and he has been sending the medical certificate alongwith application to the employer for sanctioning medical leave. It is further submitted that instead sanctioning leave the employer treated the worker Naseem Khan as absent without Authority and issued charge sheet for major punishment. It is further submitted that the worker was not informed about domestic enquiry. He was also not asked to appear in the enquiry nor the worker had any information about appointment of enquiry officer. He was also not allowed to defend himself. The enquiry officer was prejudiced with the worker and he conducted the enquiry ex-party and found him guilty of misconduct for absenting without information from 11-5-81 and send his report to the concerned officer. Worker was also not provided with the copy of the findings of the enquiry officer nor got any explanation from the Worker. On the basis of findings of the enquiry officer the disciplinary authority vide its order dated 8-2-83 passed a order removal from service. Worker was accordingly punished without application of mind. According to the worker he got the information of removal when he approach for joining the duty. Thereafter he came to know that the disciplinary proceedings were conducted ex -party and he was made available the required documents alongwith ex-party enquiry report. Worker has alleged that he was not given the charge sheet nor any explanation was obtained from him as he was sick during 11-5-81 to 30-6-85. The worker has further stated that he got information about punishment order before 17-6-85 and accordingly he

preferred appeal on 23-8-85. It is also submitted that the worker was provided the enquiry report on 31-7-85. Appellate authority also without applying its mind confirmed the punishment order. It is also submitted that removal order from service is harsh punishment and is not proper and in case it is believed that worker was unauthorised absent, then also removal order from service is excessive punishment. Instead he should have been given minor punishment such as reversion, efficiency bar etc. Trade union has therefore requested that the enquiry proceeding may be set aside and the removal order dtd. 8-2-83 be set aside. The opposite party has filed written statement and has submitted that conciliation proceedings before Ass'tt. Labour Commissioner(C) took place in the year 1988-89 and subsequently dispute was referred to CGIT-cum-Labour Court, Kanpur by Labour Ministry, New Delhi which was registered as I.D. 318/89. In which the opposite party filed the objection. The claim statement of Naseem Khan was ultimately dismissed by the CGIT-cum-Labour Court, Kanpur on 31-8-90 giving the remark as “NO CLAIM AWARD”. The worker deliberately concealed and suppressed the aforesaid material facts before this Tribunal. It is also submitted that unless a liberty is granted to a person to file the case before appropriate court at the time of dismissal of the said case, the said person can not prefer a case before the same court against same cause of action. Admittedly the worker has not approached this Tribunal with clean hands as such the present case is liable to be dismissed on this ground also. It is also claimed that present claim application has become stale by afflux of time in as much as the petitioner was removed from his services vide order dtd. 8-2-83 and his appeal was also rejected in the year 1985 but he has chosen to prefer the present second dispute on the same cause of action in the year 2003, as such, same has become stale and liable to be dismissed on this ground alone. It is also stated that Naseem Khan was appointed as Khalasi on 10-10-69 at the age of 21 years on compassionate grounds. He was raw hand at that time. The Railway administration provided such work culture and technical skill requirements that the workman got two promotions in his time of cadre. The workman was promoted to the skilled Auto Electrician. The Railway administration provided such a work culture to the unskilled workman that during the period of 11½ years of his service, he acquired technical knowledge useful for railway services and he got two promotions during the tenure, but at the very moment, he left the job on his own w.e.f. 11-5-81 and remained on un-authorised absent without any intimation to his superiors or to his office. During his entire service period under the opposite party the worker never informed his change of address, if any, to the office of opposite party. The detail of period spent by the workman Naseem Khan is as under :

I. Period spent in service and	10-10-69 to 10-5-81 = 11 yrs 07 months
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II. Period spent on unauthorised absence for which charge sheet was given to him.	11-5-81 to 8-2-83 = 1 years 08 months and 27 days
III. Period of absence/illness, per own admission of claimant	11-5-81 to 30-6-85 = 4 years 1 month and 19 days
IV. Period spent out of service under respondent due to removal on 8-2-83 to update.	21 years 3 month & 3 days as on 11-5-2004.
V. Total period of out of Railway job.	21 years 3 months & 3 days as on 11-5-2004.

Since 11-5-81 the workman remained on unauthorised absent from duty without any information to his superiors or to his office. No information, whatsoever, regarding the absence of the workman was given to the office of the respondent by any one through any means for more than 3 months.

Due to his aforesaid unauthorised absence from duty, a major penalty charge sheet issued to the workman and a copy of same was sent through registered post at his home address i.e. Tehri Bazaar, Molviganj, Lucknow i.e. on the same address which was declared by the workman on the date of his appointment. The aforesaid registered letter was received back from the postal authorities with remarks "मकान छोड़ कर चला गया है"

Accordingly no option was left with the Disciplinary Authority but to appoint an enquiry officer to conduct the enquiry against the workman. The enquiry officer was appointed on 31-10-1981.

The enquiry officer fixed the date of enquiry on 15-12-81 and a copy of said information was again sent to the workman through registered post but same was again returned back with above remarks. Thus the enquiry officer was left with no option except to proceed with the enquiry ex-parte against the workman. Ultimately the enquiry officer submitted his ex-parte report on 16-4-82.

The disciplinary authority accepted the report of the enquiry officer and passed the order of removal from service with effect from 8-2-83 (A. N.). Again the said orders was sent through registered post with A.D. to the home address of the workman but again it was returned back with the remarks that "पता चला प्राप्तकर्ता अरब में है अतः वापस"

It seems that the workman has utilised his skills and energy at young age in abroad to earn money and has no care for his employer, who has made him learn skills.

Apart from sending the aforesaid punishment order through registered post which was received back undelivered a notice for removal from service was also

pasted at the working place of the workman in presence of two witnesses.

On 17-6-85 the workman submitted an application and demanded copy of charge sheet, enquiry report as well as the punishment order for preferring his appeal. All the aforesaid documents were duly supplied to him which were duly received by him personally on 31-7-85.

Thereafter the workman preferred a departmental appeal on 23-8-85 to the Chief Workshop Engineer, Northern Railway, New Delhi which was duly considered by the competent authority, he was pleased to maintain the order of the disciplinary authority and reject the appeal of the workman.

The aforesaid order regarding rejection of his appeal was personally received by the workman on 2-9-85.

It seems only after 16 years of long sleep, the workman was suddenly awakened and he has chosen to prefer the present industrial dispute which has become stale by so much afflux of time and is liable to be dismissed on this ground alone.

As already explained herein above the claimant did not reported for duty w.e.f. 11-5-81 and he did not inform either his superiors or to his office regarding his unauthorised absence from duty. Neither any letter nor any communication was ever received by the answering respondent, whatsoever, in relation to alleged illness of the claimant. In fact the claimant was not ill but has gone to Arab without information to the answering respondent. The claimant may be put to strict judicial proof as per law of evidence regarding the allegations made by him the paras under reply. Since he remained unauthorisedly absent from duty for quite long period as such major penalty charge sheet was issued against him for his absence from duty.

At every stage of the enquiry a registered letter was sent at the home address of the claimant as was notified by him at the time of his appointment but same were returned unserved by the postal authorities with the remarks that either he left his home or he has proceeded to Arab. Therefore the competent authorities had no option except to proceed with the enquiry ex parte against the worker. It is admitted that after order of removal from service having passed in the year 1983 the worker approached the opposite party with letter dt. 17-6-85 with request to supply him all the relevant documents relating to the enquiry and punishment for filing the departmental appeal and on his such request all the relevant documents were duly supplied to him. It is stated that trade union made false story manufactured by the claimant to regain his job. It is also stated that the authorised concerned appellate authority rejected the appeal after considering the entire case of the worker. It is alleged that during the relevant period worker was not in the country. He had gone to Arab country without intimation and without permission of the railway administration as per remarks of the postal authority.

“पता चला प्राप्तकर्ता अब में है, अतः बाप्स” It is also pleaded by the opposite party that keeping in view, change of technology and introduction of modernisation, certain activities have now been closed resulting in surplus staff who are awaiting for their deployment. The workman is apparently of no use for railways as he has left his job and accordingly has no training for upgradation since the decade. It is pleaded that the worker Naseem Khan date of birth as per his record is 25th March, 1948 and accordingly he would have been retired on 31st March, 2008 i.e. after less than 4 years, had he been in service. Worker while entering in the old age, has raised an industrial dispute in 1988-89 and thereafter now only to enjoy the pensionary benefits from the Railway administration while now he is of no use to his employer. In view of the aforesaid facts and reasons the present has no merits and is also not maintainable as such claimant is not entitled to any relief and on the other hand the present claim application is liable to be dismissed as “No claim Award”.

Worker has filed rejoinder in which it is admitted that industrial dispute No. 318/89 was registered at CGIT-cum-Labour Court, Kanpur in which the worker could not appear and could not put up his case and therefore no claim award was passed which was not based on merit and therefore the objection on that ground is not maintainable.

Worker has not filed any document alongwith his statement of claim. Instead certain documents have been filed on 6-12-04 by Sri P.K. Tewari alongwith application C-23 which has not been signed by P.K. Tewari. Documents which have been filed are as follows, none of the documents are original all are photo copies :

1. Information regarding illness by the worker to CME dt. 11-5-81.
2. Medical certificate submitted to CME by the worker dt. 2-6-81.
3. Medical certificate submitted to CME by the worker dt. 1-7-81.
4. Medical certificate submitted to CME by the worker dt. 1-1-82.
5. Medical certificate submitted to CME by the worker dt. 1-1-83.
6. Medical certificate submitted to CME by the worker dt. 4-1-84.
7. Application addressed to Manager/Foreman by the worker dt. 10-6-85.
8. Application addressed to Manager/Foreman by the worker dt. 17-6-85.
9. Receipts of application send by the worker.
10. Application submitted to Chief Workshop Engineer, Uttar Railway, Baroda House, New Delhi dt. 23-8-86.
11. Enquiry Officer's enquiry report No. 752E/DCME/ 297F dt. 16-4-82

12. Application addressed to Railway Minister by the worker dt. 25-11-86.
13. Application addressed to Railway Minister by the worker dt. 25-11-86.
14. Application addressed to Railway Minister by the worker's wife dt. 8-12-86.
15. Application addressed to Chief Workshop Engineer, Uttar Railway, Baroda House, New Delhi by the worker.
16. Letter send by Smt. Swaroop Kumar Bakshi to Mr. Mahabir Prasad.
17. Application addressed to Railway Minister by the worker.

C-24/3, C-24/5, C-24/7, C-24/9, C-24/11, C-24/13, C-24/27, C-24/28, C-24/30, C-24/34 and C-24/35 have not been signed by the anyone.

Many dates were fixed for evidence such as 4-8-04, 2-9-04, 6-12-04, 9-5-05, 24-8-05, 3-11-05 and 28-2-06 but no evidence was produced by the trade union and has been continuously seeking adjournment. Ultimately on 28-2-06 the adjournment application was rejected and it was believed that the worker does not want to produce any evidence and does not want to produce himself to cross examination, thereafter opposite party was directed to file affidavit in support of his case and accordingly opposite party filed the affidavit of Sri Arun Sharma, Sr. Personnel Officer, Northern Railway, Carriage and Wagon, Shops, Alambagh, Lucknow who was cross examined by Sri P.K. Tewari on 2-8-06, 8-9-06 were fixed for argument. On 8-9-06 the representative of the worker Sri P.K. Tewari moved an application for adjournment. The case being sufficiently old and the reasons shown for adjournment was not sufficient therefore application was rejected.

The representative of the opposite parties has argued that the case was agitated prior to this reference order and failure of conciliation proceedings the trade union raised the dispute before the CGIT-cum-Labour Court, Kanpur when the matter was referred to CGIT-cum-Labour Court, Kanpur for adjudication. CGIT-cum-Labour Court, Kanpur registered the said dispute as I.D. No. 318/89. Opposite party in that case also filed objection against the statement of claim. The statement of claim of Naseem Khan was ultimately dismissed by CGIT-cum-Labour Court, Kanpur on 31-8-90 giving remarks as No Claim Award. The worker has concealed the fact in this statement of claim he has argued that it is settled principle of law that unless a liberty is granted to a person to file a case before the appropriate court at the time of dismissal of said case, the said person cannot prefer a case before CGIT-cum-Labour Court again on the same cause of action. The representative of the opposite party has filed 2003 ALL. LJ 2117 Rajesh Khanna Vs. Collector, Hamirpur and others. Hon'ble High Court in the above case has held that conduct of the petitioner cannot be ignored. No compassion or sympathy can be shown

to a litigant like the petitioner who has concealed relevant and material facts. The petitioner is guilty of not approaching the court with clean hands and it is gross abuse the process of the court.

The representative of the opposite party also relied upon (1996) 33 Administrative Tribunal's cases 877(CAT, Jaipur) *Permanand and others vs Union of India and others*. He has argued that in the said case earlier the original application withdrawn without obtaining the permission of Institute fresh O.A. Subsequent O.A. in respect of the same subject matter and the same cause of action was filed and it was held that subsequent application was not maintainable. Learned representative has argued that the learned members of the Administrative Tribunal have relied on *Sargoja Transport Services Vs STAT* where in extract of the judgement has been cited.

On behalf of the worker reply was filed about conciliation of the earlier industrial dispute and it was submitted that the said I.D. was not decided on merits.

It appears that worker in the earlier I.D. also absented from the proceeding and that might for the reason for passing no claim award as the worker has absented in the present case. No reason has been shown as to why no application was moved to set aside the aforesaid no claim award. In the circumstances I come to the conclusion that it is abuse of the process of law.

The opposite party has proved that Naseem Khan was appointed as Khalasi on 10-10-79 at the age of 21 years. He was raw hand at that time and the railway administration provided such a work and culture to the unskilled workman that during the period of 11½ years of service he acquired technical knowledge useful for railway and other services and he got two promotions during the tenure, but at that very movement he left the job on his own w.e.f. 11-5-81 and remained on unauthorised absence without any intimation to his superiors or to his office for quite a long period. The worker during his service under the opposite party never informed his change, of addresses to the office of the, opposite party. It has been proved that the worker was unauthorisedly absent from 11-5-81 to 8-2-83 for one year and eight months and 27 days. He was further absent upto 30-6-85 thus period spend out of service is 21 years 3 months and 3 days.

It is also proved that since 11-5-81 workman remained unauthorised absence from the duty without any information to his superiors or to his office. No information whatsoever, regarding the absence of the workman was given to the office. Due to the aforesaid absence a major charge sheet dt. 25-4-91 was issued to the worker and copy was sent through registered post at his home address. The letter was received back from the postal authorities with the remark "मकान छोड़ कर चला गया है।"

In the circumstances there was no option left with the disciplinary authority then to appoint Enquiry Officer

to conduct the enquiry against the worker. Enquiry Officer endeavoured to obtain the presence of the worker and send notice by registered post but the same too was return with the same remark. Thus the Enquiry Officer was left with no alternative except to proceed enquiry ex-parte against the workman. Ultimately the Enquiry Officer submitted his ex-parte report on 16-4-82. The disciplinary authority accept the report of the Enquiry Officer and passed the order of removal from service w.e.f. 8-2-83. Again the said order was send through registered post with A.D. to the home address to the workman but it was return back with the remarks that "पता चला प्राप्तकर्ता अरब में है।"

The representative of the opposite party has argued that workman has utilised his skills and energy in abroad to earn money and has no care of his employer who has made learn skills.

It has also been proved that apart from the sending removal order through registered post which was received back undelivered, a notice for removal from service was also pasted on the working place of the workman in present of two witnesses. It was on 17-6-85 the workman submitted a application demanding copy of chargesheet, enquiry report as well as punishment order for preferring his appear. All aforesaid documents duly supplied to him which were duly received by him personally on 31-7-85. Workman preferred departmental appeal on 23-8-85 which was duly considered by the competent authority who was pleased to maintain the order of the disciplinary authority and rejected the appeal. The rejection order was personally received by the worker on 2-9-86.

Representative of the opposite party has argued that it seems only after 16 years of long sleep, workman was suddenly awakened and choose to prefer the present industrial dispute which has become stale by afflux of time. The worker did not report for duty w.e.f. 11-5-85 and did not inform either his superiors or the office regarding his absence from duty. The opposite party has proved that in fact the worker was not ill but has gone to the Arab without information to the opposite party. Since he remained unauthorisedly absent from duty for quite a long period as major penalty chargesheet was issued against for his absence from duty.

It is further argued that getting in view of changes of technology and introduction of modernisation certain activity have now become closed resulting in surplus staff who are awaiting their employment and in the circumstances the worker is apparently no use for railways as he left his job and accordingly has no training for upgradation since decades. He has further argued that Naseem Khan's date of birth as per records is 25-2-48 and he would have been retired on 31-3-08. The workman while entering in the old age raised the industrial dispute in 1989 and thereafter now too enjoy the pensionary benefits from the railway administration.

I am convinced with the arguments on record and come to the conclusion that the workman was afforded sufficient opportunity to appear in the departmental enquiry but he did not avail it for the simple reasons that he deserted the employer and went abroad for earning. The management had no option then to terminate the services of the workman and I am of the considered opinion that the termination order does not suffer from any irregularity or illegality. The issue is therefore decided against the worker and I also come to the conclusion that workman is not entitled for any relief whatsoever. He has misused the process of law. Award passed accordingly.

Lucknow : SHRIKANT SHUKLA, Presiding Officer
12-10-2006.

नई दिल्ली, 31 अक्टूबर, 2006

का.आ. 4497.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार नार्दन रेलवे के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण लखनऊ के पंचाट (संदर्भ संख्या 34/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 31-10-2006 को प्राप्त हुआ था।

[सं. एल-41012/169/2002-आई.आर(बी-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 31st October, 2006

S.O. 4497.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 34/2003) of the Central Government Industrial Tribunal/Labour Court, Lucknow now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Northern Railway and their workman which was received by the Central Government on 31-10-2006.

[No. L-41012/169/2002-IR (B. I)]

AJAY KUMAR, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, LUCKNOW

PRESENT:

SHRIKANT SHUKLA, Presiding Officer

I. D. No. 34/2003

Ref. No. L-41012/169/2002-IR (B-I) Dated 13-3-2003

BETWEEN:

The Divisional Organization Secretary,
Uttar Railway, Karmchari Union,
283/63, Kha Garhi Kanor (Premwati Nagar),
P.O.-Manaknagar, Lucknow (UP)-226001
(In the matter of Smt. Sitara Devi)

AND

The Sr. Divisional Mechanical Engineer,
Northern Railway, DRM Office, Hazratganj,
Lucknow (UP)-226001.

AWARD

The Government of India, Ministry of Labour, vide their order No. L-41012/169/2002/IR (B-I) dated 13-3-2003 has referred the following dispute for adjudication to the Presiding Officer, Central Government Industrial Tribunal cum-Labour Court, Lucknow for adjudication.

“क्या प्रबन्धन, उत्तर रेलवे, लखनऊ के द्वारा स्व. दयावन्त क्लीनर की पत्नी, श्रीमति सितारा देवी को 25-9-1998 से पेशन नहीं दिया जाना एवं करुणामूल आधार पर नौकरी पर रखने हेतु विचार नहीं किया जाना न्यायोचित तथा न्यायसंगत है? यदि नहीं, तो कर्मकार स्व. दयावन्त की पत्नी श्रीमति सितारा देवी किस अनुतोष को पाने की अधिकारिणी है?”

The trade union's case in brief is that one Shri Dayawant S/o Late Ram Raj was appointed as cleaner in Loco Shed/Northern Railway, Lucknow on 15-11-78 and he died on 25-9-89. It is alleged that no pension-gratuity etc. was paid to the wife, Smt. Sitara Devi and his son, of the said worker nor was given employment as per railway rules. It is submitted that the widow of the deceased worker sent several letters to the management and these are still pending. As the widow and son has no means of livelihood, the trade union has prayed the pension, gratuity etc. be paid and employment be provided to the widow and son. Assistant Personnel Officer of the opposite party has filed the written statement. The opposite party has denied the claim and has alleged that so called Dayawant has not served the railways. The trade union has no *locus standi* as Smt. Sitara Devi is not the workman under the provisions of I.D. Act and she is not entitled to raise the Industrial Dispute. It is pleaded that in the year 1978 to 1981 a game of fraud was played against the Railway administration in Loco Shed and in connivance of some office staff a number of substitute/casual labours were shown on the role fraudulently and huge amount were received by them in the form of wages, but as soon as the act of fraud came to the knowledge all of them were discharged by the DME/N. Railway, Lucknow w.e.f. 4-10-81 and staff found entangled were taken to task. It is submitted that the services of Dayawant as cleaner were never found in Railway Administration. There is no service record in respect of so called Dayawant, therefore, there is no question of Family Pension, gratuity or compassionate appointment. It is also pleaded that the present case is highly delayed and there is no satisfactory explanation.

Trade union has filed rejoinder in which the trade union has denied the statement of the opposite party.

Trade union has filed following documents:

1. Travelling railway pass for journey on 15-10-1981.
2. Travelling railway pass for journey on 13-2-84.
3. Commendation certificate dated 15-4-86.
4. Privilege Ticket Order for self wife and mother dated 17-5-85.
5. Death Certificate, Khetra Panchayat dated 12-2-2000.
6. 2 Photograph.

Trade union has examined Smt. Sitara Devi and Narendra Kumar. Opposite party has examined Shri Prashant Rai.

Heard arguments of the parties and carefully perused the evidence on the record.

It is noteworthy that the trade union has filed the award and notification in respect of I.D. No. 48/1983 between Zonal Working President, Uttar Railway Karmchari Union, 96/196, Roshan Bajaj Lane, Ganesh Ganj, Lucknow and Divisional Railway Manager, Northern Railway, Lucknow. In that case Government referred the dispute for adjudication. Reference order No. is L-41011/782-II (B) dated 10-1-1983. That was with respect to termination of 207 workers. The name of Dayawant finds at Sl. No. 33 of the Annexure to the award. The case was that all 207 worked including Dayawant, were terminated on 4-9-81. The date of appointment mentioned is 5-1-80. Presiding Officer, Central Government Industrial Tribunal-cum-Labour Court, Kanpur passed the award on 1-1-87 holding the termination as illegal and *void-ab-initio* and they are entitled to be reinstated with full back wages. But in the present case the above facts have not been disclosed that Sh. Dayawant was terminated on 4-9-81 nor it is disclosed that as to when Dayawant thereafter joined the duties in pursuance of the award passed on 1-1-87. Had, the Divisional Origination Secretary, Uttar Railway Karmchari Union, 283/63, K, Garhi Kanora (Premwati Nagar), PO. Manak Nagar, Lucknow, which has filed the present statement of claim, stated the existence of above award, opposite party could have, filed more effective reply.

It is noteworthy that in the present statement of claim, trade union stated in para 1 of the Claim that Dayawant was admitted in the service on 15-11-78, whereas in the earlier Industrial Dispute the date of appointment is shown as 5-1-80 and he was terminated on 4-9-81. Award in the Industrial Dispute was passed on 1-1-87. Along with statement of claim Photostat copies of travelling passes are enclosed. The details and observation of the court is mentioned against each which is narrated below:

Sl. No.	Paper No.	Date of Travelling	Observation
1.	1/6	15-10-81	<ol style="list-style-type: none"> 1. In case Dayawant was terminated on 4-9-81 how this pass. 2. Date of issue not mentioned. 3. Pass in respect of Shri and Smt. Dayawant whereas witness, the alleged widow states that she was married to Dayawant on 6-5-82. 4. In the circumstances the pass is not genuine.
2.	1/13	13-2-84	<ol style="list-style-type: none"> 1. Worker was terminated on 4-9-81, award passed in I.D. on 1-1-87. How the pass could be issued unless specifically pleaded that after termination the worker was reinstated on a particular day. Not only the fact is to be pleaded, but proved also. 2. There is no date mentioned on the pass as to when the same was issued.
3.	1/14	Not mentioned	<ol style="list-style-type: none"> 1. Date of pass is dated 11-10-85. How the pass could be issued during the termination period of the worker. There is specific instruction on the pass shall be retained by the office of ticket clerk and ticket shall be issued. It means the PTO is not availed otherwise there could not have been the opportunity to have the pass to facility the photocopy.

How coming to the fact about the filing of so called commendation letter paper No. 10/4, it is observed that in case the Dayawant was terminated on 15-4-86 and the award was passed on 1-1-87, how it is that the commendation letter was issued on 15-4-86. The documents appeared to be bogus. Similarly paper No. 10/5 relates to so called death of Dayawant on 25-9-89 and certificate was got prepared on 12-2-2000.

Two photographs have been filed, but none of them are proved. The photos have been filed at the evidence stage. No opportunity was available to the opposite party to verify.

The witnesses of the trade union are, No. 1, Sitara Devi the widow of Dayawant who states her age 27 years, when she was called to tell her name, age, address etc. Her statement was recorded on 11-8-2003. In the statement at page 2 she has stated her age as 36 years. She has ration card in the name of her husband, but she has not filed it. She was asked to tell the units accommodated in the card, but she could not tell and stated she does not remember. It is not that she is uneducated, she passed High School examination in 1982 from High School, Shri Rampur, Pawai, Azamgarh.

The widow has not been able to produce a single wage slip, the identity card nor the appointment letter, although she has stated that her husband used to keep these papers with him. In the absence of the material evidence it is very difficult to believe her testimony. She has also not been able to produce even a joint photo with her husband. This is also noteworthy fact that the Bahnoi, the brother of the Dayawant are living in Lucknow and they are employed in Railway only, but they have also not been produced, who could be the best witnesses about the identity of Dayawant and his wife.

This also noteworthy that the widow of so called Dayawant and the Trade union has not filed a single copy of representation from the date of so called death of Sh. Dayawant. She has stated that she filed this case for employment of the son, but the name, age etc. has also not been disclosed.

The other witness is Narendra Kumar Yadav who was examined by the trade Union on 23-10-2003. He states that he was appointed as cleaner in 18-5-79 and one Dayawant was employed as cleaner who entered in service prior to him. He has tried to prove the photos of self and one of Dayawant. In cross-examination he could not tell as who was the cameraman and where is the negative film, about himself witness, Narendra Kumar states that he entered in service as casual-labour and was regularized in 1984. He under went screening and medical test and thereafter he was made regular. About Dayawant he said that he was regularized in 83-84.

Assistant Personnel Officer (Mechanical) has stated that there was no person Dharmandar Dayawant employed in Railways Loco Shed. He has also stated that during the year 1978—81 some persons obtained the service in the railways with the connivance of staff members, due to which the Railways have to suffer huge loss. The railways initiated action against such persons. He has stated that there is no service record if any person known as Dayawant S/o Ram Raj, Railway's also do not know as to who is the wife of

Dayawant. He has also stated that the wife of so called Dayawant has also not filed any application for employment.

Learned representative of opposite party has drawn my attention to paper No. 10/3 again and has stated that the said PTO is dated 17-5-88 and the name of Dayawant is shown as 25 meaning thereby, that he was minor on the alleged date of appointment.

Opposite party's representative have argued that the railways are the biggest employers on the country and it has huge stock of stationary. The unscrupulous Statements misuse the stationary for personal gains. He has also argued that the so-called unrecognized union, and the railway employees misuse their position and help others to get service through back doors. They do not hesitate even in filing bogus cases in the labour courts. He has argued that the near relations are in the railway service as evident from the evidence of Sitara Devi. He has argued that taking the assistance of the previous industrial dispute, the foundation of the case was prepared, but the false hood has come on the surface.

I have no hesitation to hold that the present case is cooked one. Smt. Sitara Devi, who herself could not say as to whether Dayawant was casual, temporary or permanent is not entitled to gratuity, pension or employment on compassionate ground. The claim suffers from delay and latches. She did not represent and there arise no question of consideration by the management of Northern Railway. The issue so decided against the trade union and Smt. Sitara Devi is not entitled to any relief what so ever.

Lucknow : SHRIKANT SHUKLA, Presiding Officer
12-10-2006.

नई दिल्ली, 31 अक्टूबर 2006

का.आ. 4498.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एम. एफ. रेलवे के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, गुवाहाटी के पंचाट (संदर्भ संख्या 4/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 31-10-2006 को प्राप्त हुआ था।

[सं. एल-41012/10/2005-आई.आर.(बी-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 31st October, 2006

S.O. 4498.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (4/2005) of the Central Government Industrial Tribunal Labour Court, Guwahati now as shown in the Annexure in the Industrial

Dispute between the employers in relation to the management of N.F. Railway and their workman which was received by the Central Government on 31-10-2006.

[No. L-41012/10/2005-IR (B.I)]

AJAY KUMAR, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT GUWAHATI, ASSAM

PRESENT: Shri H.A. HAZARIKA, Presiding Officer
CGIT-cum-Labour Court, Guwahati.

Ref. Case No. 04/2005

In the matter of an Industrial Dispute between :—

The management of N.F. Railway, Lumding, Nagaon.

Vrs.

Their Workmen Sri Presh Ch. Das.

APPEARANCES:

For the workman : Mr. A. Dasgupta, Advocate.
Miss. B. Das, Advocate.
Mr. S. Ch. Krabarty, Advocate.

For the management : Mr. S.N. Choudhury, Rly.
Advocate.

Date of Award : 17.10.06.

AWARD

1. The Government of India, Ministry of Labour, New Delhi, *vide* its order No. L-41012/10/2005/IR (B-I) referred the Industrial Dispute arose between the employers in relation to the Management of the General Manager (P), N.F. Railway, Lumding and their Workman, Sri Paresh Ch. Das to adjudicate and to pass an award on the strength of powers conferred by Clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Dispute Act, 1947 (14 of 1947) on the basis of the following Schedule.

SCHEDULE

"Whether the industrial dispute raised by Sh. Paresh Ch. Das, Ex. N.F. Railway Box Porter against the management of N.F. Railway over alleged illegal termination and regularization in service justified? If so to what relief the workman is entitled?"

2. On being appeared by both the parties the proceeding is proceeded here for disposal being Numbered 04/2005 as per procedure.

3. The case of the workman Sri Paresh Ch. Das in short from his W. S. is that he was engaged by the Management, N.F. Railway as coal and ash handling labour under Badarpur Labour Co-operative Society during the

period while the Steam Engine was functioning. After abolition of functioning of Steam Engine in the year 1997 the Workman became defuncted and remained unemployed for about a year. The Management then took him back as Box Porter through Mazdoor Co-operative Society Badarpur with effect from 16-8-1998 and worked so under the Loco Forman Badarpur till August, 2001 on which date he was also dismissed from his service without any cause or his fault.

4. Then the Workman raised the question of his illegal termination before the Regional Labour Commissioner (Central), and a conciliation proceeding was initiated but the Management did not attend the conciliation proceeding taken by the ALC, Central Government. The ALC concerned had to submit his failure report. That due to the illegal termination of services of the workman the family members and dependent of the Workman facing extreme financial crisis who has no other skill in any other Trade or any other alternative service to survive. The Management being one of the life lines of Nation has got enough scope to deploy him but unjustifiably not employed him.

Under the above facts and circumstances the Workman prayed to decide the issue in favour of him.

5. The case of the Management in brief is that the Workman Sri Paresh Ch. Das was never engaged by the Management for handling of coal and ash of Steam Engine at Badarpur. That for the handling of coal and ash for the Steam Engine and then Labour for Box Porter were awarded to Labour Co-operative Society Ltd. on contractual agreement and the Workman Sri Paresh Ch. Das worked under the contractor as engaged by the contractor of the said Society. After abolition of Steam Engine of N.F. Railway the above workman had been retrenched by the Labour Co-operative Society and not by the authority of the N.F. Railway as the N.F. Railway authority never engaged Sri Paresh Ch. Das for any kind of job. That the contractual works of Transportation of the driver line boxes and tool boxes at Badarpur was awarded to Labour Co-operative Society on contractual basis for the period from 15-08-98 to 11-08-2003 and Sri P.C. Das was worked under contractors as engaged by the contractors and not by the authority of N.F. Railway. Since the workman Sri Paresh Ch. Das was engaged by the contractors and not by the authority of N.F. Railway, hence, question of illegal retrenchment without violation of the Provision U/s 25 F of Industrial Dispute Act 1947 does not arise and the Management prays to dismiss the Reference Case with cost.

6. Heard the argument submitted by Mr. S.N. Choudhury, Advocate for the Management and Mr. A. Dasgupta assisted by Smt. B. Das, Advocate for the workman. Perused the evidence of Management Witness Sri Pheku Basfar, who is cross examined by the learned Advocate for the workman Smt. B. Das also perused the evidence given in Affidavit by the Workman Sri Paresh Ch. Das

who is also cross-examined by the learned Advocate Sri S.N.Choudhury, Advocate for the Management. Also perused the written argument and zerox copiers of case laws submitted by the learned Advocate for the Workman. Also perused the following exhibited documents submitted by the parties.

Exhibited Documents of Workman.

Ext. 1 : Copy of Identity Card.

Ext. 2 & 3 : Disbursement Vouchers.

7. Now the basic point I am to find out whether the relation of the alleged workman and the Management is within the relation of employee and employer. On careful scrutiny of the evidence and documents in the record I find that in no point of time the alleged workman was appointed as employee of the employer Management N.F. Railway. There is no advertisement for appointment of Labourer. So also there are no posts showing by the Management lying vacant for appointment. A proper appointment in true sense of employment can not be made without vacant post. The vacant post must be created and substantive one for a regular establishment. I find there is no evidence that some posts were created and substantive posts were lying vacant for appointment of the alleged workman. The most crucial point in reference to this matter is retrenchment. Whether the Workman is retrenched, as I have already discussed that as there is no creation of substantive and permanent post for appointment and as in no point of time the alleged workman was appointed the question of retrenchment does not arise in present facts and circumstances of the case. The workman side agitated and emphasized much on the point referring the following case laws.

Case laws cited by the Workman.

AIR 1984 SC 500 and AIR 1984 SC 502,

2001 (2) SCC 423,

2005 (12) SCC 283,

2005 (5) SCC 750,

2005 (12) SCC 147,

2000 (3) SCC 588.

The learned Advocate for the workman also stressed on the point u/s 25 F of the industrial Dispute Act. Here the burden of proving lies on the workman that he worked 240 days at a stretch and continuously in a year and he received payment for it but there is no acceptable evidence that the Workman worked continuously and at a stretch of 240 days in a year and became entitled to have a regular post. Here the Workman is not entitled for benefit u/s 25 F of the Industrial Disputes Act, 1947.

8. In the written argument the learned Advocate for the alleged workman agitated that the alleged workman

was empowered with an Identity Card to enter into premises which is an evidence of his engagement by the management. But in my opinion simple Identity Card can not be the evidence of engagement as there is no appointment letter.

9. On perusal of the case laws what I find most of these are in relation to the retrenchment. As I have already discussed that there is no evidence that the workman at any time appointed and retrenched and on perusal of the case laws relied by the Workman side that these are mostly on the point of retrenchment as such not befitting with the instant matter. To make it clear, in my humble opinion and respecting the case laws submitted are not relevant and befitting with the instant issue. What I find the Workman worked as a daily wage labourer engaged by the contractor. There was an agreement between the contractor and the Management to carry out the work by contractor by engaging labourer and admittedly Labour Co-operative Society, Badarpur was the contractor. Under the above facts and circumstances in answering the issue or Schedule I find the Management, N.F. Railway committed no injustice to the workman and the alleged workman is not entitled for any relief. Accordingly the issue is decided against the Workman Sri Pares Ch. Das.

10. Send the award to the Government concerned.

H.A. HAZARIKA, Presiding Officer

नई दिल्ली, 31 नवम्बर, 2006

का.आ. 4499.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसार में, केन्द्रीय सरकार सांगली बैंक लि. के प्रबंधतान्त्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण सं. II, मुम्बई के पांचाट (संदर्भ संख्या 2/69 आँफ 2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 1-11-2006 को प्राप्त हुआ था।

[स. एल-12011/17/2001-आई आर (बी-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 1st November, 2006

S.O. 4499.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. (2/69 of 2001) of the Central Government Industrial Tribunal/Labour Court, No. II, Mumbai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Sangli Bank Ltd. and their workman which was received by the Central Government on 1-11-2006.

[No. L-12011/17/2001-IR(B-1)]

AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL NO. 2, MUMBAI

PRESENT:

A.A. LAD, Presiding Officer
Ref. No. CGIT-2/69 of 2001.EMPLOYERS IN RELATION TO THE
MANAGEMENT OF SANGLI BANK LIMITEDThe General Manager,
M/s. Sangli Bank Ltd.
Rajwada Chowk,
Sangli-416 116

AND

THEIR WORKMEN

The President.
Sangli Bank Employees Union.
C/o. Sangli Bank Ltd.,
Raviwar Peth, Pune-411 002.

APPEARANCE:

For the Employer : Mr. M.B. Anchan. Advocate
For the Workmen : Mr. Ashok Sathe. Advocate.Date of reserving Award: 26th July, 2006.
Date of passing of Award: 31st August, 2006.

AWARD

The matrix of the facts as culled out from the proceedings are as under:

(1) The Government of India, Ministry of Labour by its Order No.L-12011/17/2001/IR(B-I) dated 14th May, 2001 in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 have referred the following dispute to this Tribunal for adjudication:

"Whether the demand of the Union that the employees Shri J. B. Sawant, Smt. S.R. Gogate and Smt. S.K. Gupte are entitled for payment of Leave Fare Concession by considering their maximum permissible distance for which they are entitled as per the Bipartite Settlement is justified? If yes, what relief they are entitled?"

(2) To substantiate the case made out in the reference 2nd Party, filed Statement of Claim, through Deputy General Secretary, Sangli Bank Employees Union, at Exhibit 5 stating that Shri J.B. Savant, Smt. S. R. Gogate and Smt. S. K. Gupte are permanent Class III employees who were working with the 1st Party at Service Branch at Fort, Main Branch, Mumbai, who had travelled with the permission of the 1st Party and submitted their claim. However, claim of these concerned employees involved in the reference of their Leave Fare Concession was not granted by the 1st Party by raising false objections. 1st Party placed reliance on the Circular No.031/95-96 & H.O. 154/95-96. In fact 1st Party cannot implement the Rules and regulations based on the said circular and deprive the workers in claiming

their Leave Fare Concession. (In fact these workers are entitled to get the Leave Fare Concession on the basis of the Bipartite Settlement which took place between the 1st Party and Union.) Again the said Circular is against the said Bipartite settlement. So it is submitted that the claim of the concerned Workmen be allowed with directions to the 1st party to comply it.

(3) This prayer is disputed by the 1st Party by filing its reply at Exhibit 8 stating that workers involved in the reference are actually not entitled for the Leave Fare Concession as claimed by them. It is stated that Shri Sawant who availed the Leave Fare Concession with his family consisting of wife and two children below 12 years travelled by a private vehicle and claimed for four adults to which he is not entitled. At the most he is entitled @ 50 paise per Km. as per road mileage for adult and @ 25 ps per Km. for child. Since he belongs to non-subordinate class cannot travel in any other transport facility than permitted to him of his status. The advance given to them was recovered from them under the Rules of employees. As far as Smt. Gogate is concerned, she travelled in between the two places in 1994 and claimed actual air fare which Bank refused on the ground that she can claim such a fare but she can claim on the basis of 1st class railway fare to and fro. As per the Bipartite Settlement she cannot claim actual air fare spent by her for travelling such a distance. As far as Smt. S. K. Gupte is concerned, she claimed Leave Fare Concession @ 80 ps. per Km. to which she is not entitled as per clause 18 of the Bipartite Settlement. As per Clause 18 of the Bipartite Settlement she can claim either actual expenses or 80 ps. per Km. per head or S.T. fare whichever is less. According to 1st Party it calculated the bus fare @ 30 ps. per km. per head based on S.T. fares of Maharashtra State Transport fares and as such she cannot claim @ 80 ps. per km. as claimed. As the claim was considered by the 1st Party on the basis of the Bipartite Settlement these workers involved in the reference are not entitled to Leave Fare Concession as claimed by them in this reference.

(4) In view of the above pleadings my Ld. Predecessor framed the following Issues at Exhibit 11 which I answer as under:

ISSUES	FINDINGS
I. Whether the demand of the Union in connection with employees viz. Shri J.B. Sawant, Smt. S.R. Gogate, and Smt. S.K. Gupte on payment of Leave Fare Concession considering their maximum permissible distance as per the Bipartite Settlement is justified?	No.
2. If yes, what relief they are entitled to?	Does not arise.

REASONS:

Issue nos. 1 & 2:

5. Union through Deputy General Secretary, submitted Statement of Claim for Shri JB. Sawant, Clerk, Smt. S.R. Gogte, Clerk, and Smt. S.K. Gupte, Clerk, who claims Leave Fare Concession relying the Bipartite Settlement stating that whatever claim made by them should be granted by the 1st Party. Whereas case of the 1st Party is that, these Claimants are not entitled for Leave Fare Concession as claimed by them for which they have raised the dispute. According to 1st Party whatever permissible to these employees have been paid by the 1st Party and they are not entitled to get any more than what is actually paid to them.

6. To prove that 2nd Party examined Assistant General Secretary of the Union by filing his affidavit at Exhibit 16 who states that, the workmen involved in the reference are entitled to get the claim which they have made. No details are given by them and it is not explained how their claim can be granted. In the cross this witness states that claimant Sawant claimed full fare or 4 adults though he travelled with two children below 12 years. He admits that Rs. 8860 were paid by the Bank towards his Leave Fare Concession and he actually claimed Rs. 11,697. In respect to the claim of Mrs. Gogte the said witness states that as per Bipartite Settlement she is entitled for first class train fare. He also admits that Gogte had travelled to Ahmedabad and Baroda and full first class train fare was paid to her. It is stated that Rs. 9642 were paid to Smt. Gogte as an Advance. Regarding Gupte, this witness states that, she travelled by air to and back by 1st class and she was paid first class train fare to Bangalore and back. The case of the 1st Party is that Smt. Gupte is not entitled for air fare and whatever is paid to her was just and proper. Again that, 1st Party has examined Mrs. Darlee S. Philip by filing her affidavit at Exhibit 19 who made out the case of the 1st Party stating that, whatever is paid to the claimants were just and proper. In the cross this witness states that she is posted as an Officer directly and working in Personnel Department. She states that air fare is admissible to the executives and not the employees of the cadre of subordinates. She also explains that, the claim made by the workmen were not the actual expenses met by them and as such they are not entitled to get it. She also explains that such an employee is entitled at the most the train fare of 1st Class though travelled by air. Second Party closed its evidence by filing closing purshis at Exhibit 17 whereas 1st Party filed closing purshis at Exhibit 21.

7. First Party submitted written arguments at Exhibit 22 where Second Party submitted oral arguments, through Advocate, contending that the Bank cannot consider the claim of the claimants @ 30ps. per km and it should calculate it @ 80 ps. per km, as per Bipartite Settlement. Besides, Bank cannot implement circular dated 27th October, 1995

as it is against Bipartite Settlement. Since claim made by the workmen and sanctioned by the 1st party was just and proper. 1st party cannot recover it from them on the guise of excess payments made to them towards their claim.

8. From these proceedings it reveals that these claimants are of subordinate class employees and not of executive class of the Bank. Besides 2nd party is trying to raise the dispute regarding circular dated 27-10-1995 saying that, it is against bipartite settlement. However, it is not made known what is bipartite settlement, when it took place and what actually it contains? The circular which is on the file dated 27-10-1995 reveals that employee can claim on the basis of 4 conditions regarding Leave Fare Concession and as per it, their claim can be calculated on the basis of Leave Fare Concession as followed: (1) actual expenses of travel. (2) Rs. 0.80 ps. per km. per head. (3) actual distance travelled and (4) ST fare @ 30 paisa per km. per head for distance travelled. It is provided that, if staff makes claim for reimbursement at higher rate than due to them and higher than ST fare admissible then it should produce necessary documentary proof to that effect. In such a case the claim may be compensated taking into account the actual ST fare charges or the maximum ST fare of the concerned state whichever is lower. Regarding private travel agencies and agents it is stated that claim will be calculated in case of private vehicles used or arrangement is made by arranging tours on the basis of the actual expenses of travel (2) 80 paise per km. per head for actual distance travelled (3) ST fare @ 30 paise per km. per head for the distance travelled and in case of children below 12 years per km. (4) In case of Railway fare the actual distance travelled as per entitlement i.e. 1st class railway fare for clerical staff and maximum railway fare up to Rs. 3,000—6000 first class for clerical and second class for subordinate staff.

9. So as per these provisions, the claim is calculated by the 1st party and it is not pointed out by the 2nd party what is that bipartite settlement and how their claim survive and how they are entitled to get as per their demand?

10. It is a matter of record that advances were paid to these workers. When 1st party ordered to recover the excess amount paid towards Leave Fare Concession, they raised the dispute and matter was referred for adjudication. In fact 2nd party was supposed to establish their claim by producing bipartite settlement in showing how their claim is just and proper and how they are entitled to get it. Here unfortunately no such efforts are made by the Union though claimants took the help of the Union. Besides actual claimants are not examined in this case to support their claim and to substantiate their claim to show how each of them are entitled to get their respective claims. On the contrary explanation is given by the 1st party on the basis of the circular dated 27-10-1995 stating it is basic and not acceptable to them. If we read the claim or the claimant

coupled with circular dated 27-10-1995, which is still in force, I am of the opinion that claim or the claimant for which reference is made cannot be considered in the light of the said circular. 2nd Party whispers that, said circular is against the bipartite settlement and it violates the provisions of the bipartite settlement. However, it is not pointed out by the 2nd party how said circular violates the bipartite settlement. Question arises if that is so, why they have not challenged said circular by taking appropriate steps? Now just they are raising dispute about the said circular in this reference when three claimants have raised dispute regarding their dues in respect of Leave Fare Concession which is not a good ground to adjudicate said in this reference.

11. The record and proceedings reveal that ex-parte award was passed dismissing the claim of the 2nd party for want or prosecution and it reveals that said reference was restored to decide on merits by passing order dated 3-3-2003.

12. Considering that the 2nd party has not established the claim of the claimants, I conclude that claimants are not entitled for the reliefs sought. So I answer the above issues accordingly and passes the following order:

Order

Reference is rejected with no order as to its costs.

Mumbai A.A. LAD, Presiding Officer
31st August, 2006.

नई दिल्ली, 3 नवम्बर, 2006

का,आ. 4500.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार स्टेट बैंक ऑफ इंडिया के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण कानपुर के पंचाट (संदर्भ संख्या 2/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 3-11-06 को प्राप्त हआ था ।

[सं. एल-12012/195/2002-आई.आर(बी-1)]

अजय कमार, डेस्क अधिकारी

New Delhi, the 3rd November, 2006

S.O. 4500.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 2/2003) of the Central Government Industrial Tribunal/Labour Court, Kanpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of State Bank of India and their workman which was received by the Central Government on 3-11-2006.

[No.L-12012/195/2002-IR (B-D)]

AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE SRI SURESH CHANDRA, PRESIDING
OFFICER, CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT SARVODAYA
NAGAR, KANPUR, UP

Industrial Dispute Case No.2 of 2003

In the matter of dispute between:

Shri Shyam Karan Anand
S/o Shri Sheo Ram
58Z/5-B Ganga Nagar,
Circular Road, Allahabad - 211 006

AND

**The Deputy General Manager
State Bank of India,
Zonal Office,
Varanasi - 221001**

AWARD

1. Central Government, Ministry of Labour, New Delhi, vide notification No. L-12012/195/2002 (IR (B-I) dated 27-1-2003, has referred the following dispute for adjudication to this tribunal for adjudication:—

"Whether the action of the management of State Bank of India, in awarding punishment of dismissal from service of Sri Shyam Karan Anand, w.e.f. 10-11-99 is legal and justified? If, not, to what relief the workman is entitled to?

2. It is common ground that the services of the concerned workman have been dispensed with by the management of State Bank of India, Zonal Office, Varanasi on the basis of an ex-parte Departmental Enquiry, w.e.f. 10-11-99.

3. In the above backdrop the case of the concerned workman as set up by him in his statement of claim submitted before the tribunal on affidavit is that the workman was appointed at the post of Cashier-cum-Clerk in the opposite party bank after facing selection process held by the Banking Service Recruitment Board and the workman joined the said post under the opposite party bank on 11-10-83. The workman served the opposite party bank with full satisfaction of the superior officer's of the bank without leaving any space for any kind of complaint either from the side of the officers of the bank or from the Constituents of the bank. The workman has been placed under suspension by the opposite party bank on some extraneous considerations without specifying the reasons for suspension except mentioning that the integrity of the workman is doubtful w.e.f. 30-5-94. The opposite party bank also lodged a F.I. R. U/s 406, 419 and 420 I. P. C. vide its letter no. PB/96/FC/ 1 dated 3-7-96 with P. S. Colonelganj, Allahabad. It is to be noted here that the action of the management bank in lodging FIR with the police is not the subject matter before the tribunal for adjudication in the

instant case therefore, claim set up by the workman in this regard need no consideration at the hands of the Tribunal in the instant case.

4. It is further alleged by the workman that the opposite, party state Bank of India also took up the concerned workman under disciplinary action by issuing charge sheet dated 8-8-96 which proceeded ex parte against the workman and ultimately the departmental inquiry culminated into the dismissal from the services of the workman by means of order dated 10-11-99 issued by the disciplinary authority of the bank on the basis of tentative order of punishment dated 21-10-99. The workman against the final order preferred an appeal before the appellate authority which also culminated into rejection by means of order dated 29th March, 2000 passed by the appellate authority, which was communicated to the workman vide letter no. var/DPC/UO.Ma.Para/53 dated 29-3-2000. It has further been alleged by the workman that he challenged the orders dated 10-11-99 and 29-3-2000 before the Hon'ble High Court of Judicature at Allahabad by way of filing Civil Misc. Writ Petition No. 20930 of 2000, but the writ petition filed by the workman was withdrawn with permission to approach the Labour Court under the provisions of Industrial Disputes Act which was allowed by the Hon'ble High Court vide its order dated 12-4-02.

5. It is further case of the workman that after the order dated 12-4-2002, the workman approached the Assistant Labour Commission (central), Allahabad, under the provisions of Industrial Disputes Act, 1947, challenging the entire action of the management of opposite party State Bank of India in the name of disciplinary action which ultimately culminated into failure of conciliation proceedings as no amicable settlement arrived at between the parties before the said learned authority. The Ministry of Labour, New Delhi, ultimately opining that there exists a valid industrial dispute between the contesting parties under section 2-A of Industrial Disputes Act, 1947, in exercise of its powers conferred upon it referred the matter of Central Government Industrial Tribunal cum Labor Court, Kanpur, for its adjudication.

6. It is also alleged by the workman that no preliminary inquiry was ever conducted by the management opposite party bank against the workman before ordering suspension order of the workman on 30-5-94. Even no complaint against the workman was ever given by the constituents of the bank. The management of opposite party bank was too not knowing the facts and reasons as to why necessity arose for them in placing the workman under suspension. However it may be mentioned, as has been pleaded by the workman, that the language used in the suspension order dated 30-5-94 is in vague terms in as much as one while going through it would not be able to understand as to why the workman has been placed under suspension. Mere using word doubtful integrity on the part of the workman in the suspension order would not suffice the legal

requirement of providing an employee that he must know clearly the reasons as to why he has been placed under suspension as under service rules an employee has also been given powers to prefer an appeal against the officer of suspension. Since no reasons has been shown in the suspension order, it has also been pleaded, by the workman that he has been deprived of his legitimate right to prefer an appeal before the appellate authority challenging the order of suspension as provided under the service conditions applicable to the award staff of State Bank of India. The opposite party bank use the term 'doubtful Inegrity' in the suspension order by means of which 'the workman has been placed under suspension, is highly illegal and arbitrary in the eye of law, which cannot be made basic for issuance of charge sheet to the concerned workman. It has also been pleaded by the workman that the suspension order is inoperative in the eye of law in as much as the workman has not been paid subsistence allowance permissible to him under service rules. It has also been alleged by the workman that the suspension order is illegal and discriminatory on the ground that the opposite party bank did not at all question the working of the responsible officers of the branch who were discharging their obligations at the relevant time. It has also been alleged by the workman that it was not within the competence of the management bank to have initiated disciplinary action against him in view of the provisions of para 19.4 of Shastry Award read together with para 521 of Desai Award which clearly envisages that if after steps have been taken to prosecute an employee or to get him prosecuted, for an offence, he is not put on trial within a year of the commission of the offence the management may then deal with him as if he had committed an act of gross misconduct or minor misconduct as defined below; provided that if the authority which was to start prosecution proceedings refuses to do so or come to the conclusion that there no case for prosecution it shall be open to the management to proceed against the employee under the provisions set out below in clauses 19.11 and 19.12 intra relating to discharge but he shall be deemed to have been on duty during the period of suspension if any and shall be entitled to the full wages and allowances and to all other privileges for such period. On the basis of above provisions it has been alleged by the workman that the term 'Misconduct' and 'offence' as defined in para 19.5 and 19.2 or in para 19.6 of First Bipartite Settlement dated 10-10-66 Service mediations) are two different and or distinct characters from each other and the aforesaid terms cannot be clubbed together for the purposes of initiating disciplinary action. It has also been pleaded by the workman that in view of para 19.4 of 1st Bipartite Settlement dated 19-10-66, if persons or employees of the bank against whom chargesheet has been filed by the authority of the bank before the police and the police have taken up the matter before appropriate court of law treating it to be an offence committed during the course of discharge of their official obligations and such employees

are not put on trial within a year of the commission of offence, the management is free to deal such cases as an act of Gross Misconduct under service regulations and in that event the opposite party State Bank of India was free to deal the workman to have committed an act of gross misconduct and it was also open to the opposite party bank to have proceeded against the workman departmentally. It has also been pleaded by the workman that the opposite party bank logged an F.I.R. with the police authority on 6-7-96 and soon thereafter opposite party bank issued chargesheet to the workman 8-8-96, and started inquiry proceedings against the workman without awaiting the trial of the workman before competent court of law which according to the workman is highly bad in law and it was not at all open to the opposite party to have proceeds against the workman departmentally prior to one year as has been provided in terms of para 19.4 of First Bipartite settlement dated 19-10-66. It has been pleaded that from this point of view the chargesheet dated 8-8-96 is illegal and bad in law. It has been pleaded that the opposite party bank concluded ex-parte inquiry against the workman in a hasty manner which is very much clear from the tentative order of punishment dated 21-10-099 issued by the disciplinary authority, workman has further pleaded that he could not put up his effective defence before the inquiry officer for want of appropriate information which fact is very much clear from the tentative order of the disciplinary authority as well as from the inquiry proceedings dated 17-11-98 admittedly on which date the workman was in jail, when the inquiry officer held the proceedings of the inquiry behind the workman. It has also been pleaded by the workman that from the tentative order issued by the disciplinary authority on 21-10-99 it is quite obvious that the workman could not attend the inquiry on 17-11-98 as he remained in Naini Jail from 10-11-98 to 17-11-98. It has further been pleaded by the workman that the tentative show cause notice is also indicative of the fact that the inquiry officer fixed a date of hearing as 10-3-99 for the sake of natural justice but the concerned workman sought adjournment on the ground that some marriage is in his family and that the inquiry officer gave another opportunity to the workman by fixing next date of inquiry as 5-4-99. On 5-4-99 the workman sought adjournment for 15 days on the pretext that he could not have been at seek consent letter from his defence representative. It is further pleaded that the cause tentative order further indicates that the workman was provided with the copies of inquiry proceedings where after the inquiry officer finally concluded the inquiry and submitted his final report to the disciplinary authority on 15-5-99. The Disciplinary authority on going through the report of the inquiry officer observed that since the workman has sought 15 days time to make his defence before the inquiry officer which opportunity was denied to the workman all by the inquiry officer, the disciplinary authority remitted the entire inquiry to the inquiry officer with direction to afford an opportunity of

defence to the workman and then conclude report of inquiry in the matter. It is pleaded that on receipt of entire inquiry file from the disciplinary authority, as alleged, the inquiry officer fixed a date of inquiry on 4-8-99 and advised the workman to produce his defence before him. It is also clear from the tentative show cause notice that since the workman neither attended the inquiry before the inquiry officer on 4.8.99 nor submitted any application, the inquiry officer informed the disciplinary authority in the above manner vide his letter and also advised the disciplinary authority that his report dated 14-5-99 submitted earlier by him be treated as final report. It has been pleaded by the workman that the workman was never informed by the inquiry officer about the date fixed as 4-8-99 in writing at any point of time. It is also pleaded by the workman that the inquiry officer in fact never held any proceeding on 4-8-99, and in a hasty manner he wrote the disciplinary authority by means of his letter that his earlier inquiry report dated 14-5-99 be treated as final report in the matter of disciplinary action against the workman as the inquiry officer was due for his retirement w.e.f. 31-8-99. It has also been pleaded by the workman that when the inquiry report was not accepted in by the disciplinary authority and the entire inquiry file was remitted back to the inquiry officer, it was incumbent upon the inquiry Officer to have recorded fresh inquiry findings against the workman but in no case it was at all open for the inquiry officer to have written to the disciplinary authority without holding any inquiry on 4-8-99 that the earlier report of inquiry should be treated to be the final report of inquiry in the matter of the concerned workman.

7. It has further been alleged by the workman that since the earlier report dated 14-5-99 prepared by the inquiry officer was not accepted by the disciplinary authority therefore according to the settled principle of law below the same cannot be acted upon by the disciplinary authority for the purposes of inflicting punishment of extreme penalty of economic death. It has also been pleaded by the workman that in the facts and positions as explained herein above it would be presumed that the workman has been sacked by the disciplinary authority on arbitrary and extreme considerations even without there being any valid inquiry report of Enquiry Officer on the record, hence the order of dismissal and order of appellate authority is liable to be rejected and the workman be held entitled to be reinstated in the service of the opposite party state Bank of India w.e.f. 10-11-99 with full back wages and all consequential benefits together with seniority etc.

8. The claim of the workman has been contested by the opposite party State Bank of India on variety of ground inter alia alleging therein that it is not in dispute, that the workman was placed under suspension on 30-5-94 and that a charge sheet dated 8-8-96 was issued to him on account of certain acts of misconduct committed by the workman. The workman appeared in the domestic inquiry

and requested for time to produce the defence representative of his choice. The time was granted but the workman did not produce the same, therefore, the domestic inquiry concluded *ex parte* against him. Thereafter the workman was issued tentative order of punishment dated 21-10-99 by the disciplinary authority alongwith the inquiry report, but the workman failed to submit any reply to the tentative order of punishment. The disciplinary authority was left with no other option but to pass the final order dated 10-11-1999 dismissing the workman from the services of the bank.

9. At this stage it is worth to note that once the opposite party bank having admitted that the inquiry against the workman has been held *ex parte* and the workman has been imposed upon with the punishment of dismissal from service on the basis of *ex parte* inquiry there remains hardly any need to detail further facts alleged by the opposite party state Bank of India as in the aforesaid circumstances the tribunal has to examine as to whether it was within the competence of the bank to have proceeded *ex parte* against the workman; whether it was within the competence of the opposite party bank disciplinary authority to have accepted the report dated 14-5-99 submitted by the inquiry officer which was not accepted by the disciplinary authority and thereafter the same was accepted by the disciplinary authority and acted upon by way of passing impugned officer of dismissal against the workman merely on the letter dated 4/5-8-99 which is on record.

10. It may also be pointed out that on the basis of pleadings raised by the opposite party bank in their written statement, it has been prayed by the opposite party bank that the claim of the workman is devoid of merit and is liable to be rejected and the workman be held not entitled to any relief.

11. After exchange of pleadings between the parties, both contesting parties have adduced documentary and oral evidence in support of their respective claims and counter claims.

12. Whereas in support of his claim the workman himself examined as WW,1, the management examined their witnesses Sri S. K Srivastava as M W. 1 (Presenting Officer before the Inquiry proceedings against the workman) and Sri R. N. Sarabhi, Enquiry officer against the workman during the conduct of inquiry proceedings.

13. Both contesting parties apart from adducing oral arguments have also submitted written arguments in support of their respective claims and counter claims.

14. I have heard the arguments of contesting parties at length and have also gone through the entire records of the case carefully.

15. The first contention raised on behalf of the workman is that the management conducted the inquiry

against the workman *ex parte* and on the basis of *ex parte* inquiry management removed the services of the workman. The *ex parte* inquiry conducted by the management is against service rules and is also against the principles of natural justice, therefore, is vitiated. On the other hand it has been contended that the concerned workman deliberately did not participate in the inquiry despite information, therefore, the inquiry officer has no option except to proceed *ex parte* against the workman. It is pertinent to note that while disposing off the application of the workman by means of which he has sought certain documents from the management, the management submitted before the tribunal that original inquiry proceedings held *ex parte* against the workman are not traceable therefore opposite party bank is not in position to file original inquiry proceedings before the tribunal instead management is filing photocopies of the same which may be kept on record. The tribunal directed the management vide order dated 26-2-04 to file an affidavit to this effect, but the management did not comply with the orders of the tribunal by filing affidavit to the extent that the original inquiry proceedings are not traceable. In the cases of termination, dismissal or removal of a workman, when the same are under judicial scrutiny before a court of law, it is the bounden duty of such tribunal or court to first examine the proceedings of inquiry so as to ascertain the fact as to whether the same is vitiated or not. It has also been submitted by the authorised representative for the workman that the original documents which are a part of any dispute in a court case against the workman are liable to be preserved in safe custody by the authorities of the bank and mere submission that the original documents relating to inquiry proceedings are not traceable or misplaced is not enough to believe the contention of the management in the absence of any proof before this tribunal, that the officers responsible for the preservation of documents related with the present dispute have suitably been dealt with by disciplinary action for their negligent working. After giving anxious consideration to the submissions of the parties on this point, the tribunal finds much substance in the arguments advanced by the authorised representative for the workman and hold that the opposite party bank deliberately withheld the original inquiry proceedings from the tribunal with a view that the claim of the workman that he had not been provided adequate opportunity for his effective defence by the inquiry officer during the course of domestic inquiry may not be established before the tribunal. Therefore, taking an adverse inference against the bank it is held that the inquiry proceedings held against the workman was not in accordance with law and rules prescribed under service conditions as such it is further held that the *ex parte* inquiry held in this instant case against the workman is vitiated.

16. It has also been contended by the authorised representative for the workman that photocopies of the

documents are not sufficient to prove the claim of a party as they cannot be read in evidence. Representative for the management could not meet the arguments of the workman's representative that photocopies of documents are not admissible and the same cannot be read as evidence in proceedings before any tribunal or court. It is also settled principle of law on the point therefore tribunal find much force in the submissions made by the authorised representative for the workman. Therefore photocopies of inquiry proceedings filed by the opposite party bank in the instant case are not being considered and under these circumstances the tribunal is left with no option but to hold that the *ex parte* inquiry conducted against the workman is vitiated.

17. Next it has been contended by the authorised representative for the workman that the inquiry officer on the basis of *ex parte* inquiry submitted his inquiry findings dated 14-5-99 for consideration before the disciplinary authority, but the disciplinary authority instead of accepting the same, remitted back the entire inquiry to the inquiry officer with direction to provide further opportunity to the workman for his defence but the inquiry officer instead of providing any opportunity to the workman against charges for his defence or even conducting any inquiry as directed by the disciplinary authority, again by means of his letter dated 4/5-8-99, informed the disciplinary authority that his earlier inquiry report dated 14-5-99 be treated as inquiry report finally. It has been further contended by the authorised representative for the workman that once the inquiry findings dated 14-5-99 had been rejected the disciplinary authority the same cannot be relied upon by the disciplinary authority on the advise of inquiry officer vide his letter dated 4/5-8-99, for awarding punishment to the workman. Attention of the tribunal has also been drawn towards tentative show cause notice dated 21-10-99, which is on record and it has been argued by the authorised representative for the workman that virtually no inquiry was ever conducted by the inquiry officer on 4-8-99 as has been shown in the notice dated 21-10-99 issued by the disciplinary authority and on the basis of the same it has been argued by the authorised representative for the workman that since the inquiry officer was due to retire from the services of the bank instead of conducting inquiry by providing opportunity to the workman he submitted letter dated 4/5-8-99 to the disciplinary authority to the effect that his earlier report dated 14-5-99 be treated to be the final inquiry report. On the contrary the representative for the management drawn the attention of the tribunal towards document dated 4-8-99 purported to be inquiry proceedings dated 4-8-99 duly signed by the inquiry officer and the presenting officer and it has been argued that inquiry proceedings were held by the inquiry officer on 4-8-99 but the workman did not participate in that. It is to be noted here that the document dated 4-8-99 is hand written document in the nature of inquiry proceedings dated

4-8-99. At this juncture the tribunal is unable to understand that when from the very beginning it is the case of the opposite party management bank that entire originals of inquiry proceedings are not traceable how original inquiry proceedings dated 4-8-99 remained in possession of the management. This will lead to one and only one inference that the document dt.4-8-99 alleged inquiry proceeding is a fake and manufactured document for the purposes of the case. This further finds support from the fact that the entire correspondence held by the inquiry officer is on computerise typing whereas it is not so with regards to document dated 4-8-99. Therefore the tribunal is of the opinion that no inquiry was ever held by the inquiry officer on 4-8-99 by the inquiry officer against the concerned workman.

18. The fact that no inquiry was ever conducted by the inquiry officer on 4-8-99 is also clear from the inquiry officer report dated 14-5-99 in which inquiry officer himself has mentioned that he conducted the inquiry against the workman on 22-11-97, 11-12-97, 26-2-98, 19-3-98, 16-4-98, 13-5-98, 10-6-98, 12-8-98, 22-8-98, 4-9-98, 5-9-98, 7-9-98, 8-9-98, 9-9-98, 13-10-98, 14-10-98, 15-10-98, 16-10-98, 17-10-98, 17-11-98, 10-3-99 and 5-4-99. Thus had there been any inquiry conducted by the inquiry officer against the concerned workman as directed by the disciplinary authority, on 4-8-99, this fact would have certainly been mentioned by the inquiry officer in his inquiry report. Non mention of date of proceedings dated 4-8-99 in the inquiry report is sufficient to believe the arguments of the workman's authorised representative that virtually inquiry officer had neither conduct any inquiry on 4-8-99, as alleged by the opposite party bank, nor prepared any fresh inquiry report for consideration of the disciplinary authority, and the disciplinary authority had accepted the inquiry report dated 14-5-99, which had already been rejected by the disciplinary authority. Therefore, the tribunal is bound to opinion that it is a case where the workman has been awarded punishment of dismissal from service by the disciplinary authority even in the absence of, any inquiry findings. Inquiry findings dated 14-5-99 is nullity in the eye of law and the same cannot be acted upon for any purposes what to say for awarding punishment to the concerned workman.

19. The tribunal is further of the opinion that the evidence of inquiry officer and presenting officer lead before the tribunal on the point that the workman has been provided full opportunity of his defence is meaningless in the above facts and circumstances of the case and is of no help to the opposite party management bank.

20. After going through the entire written statement filed by the opposite party bank it is quite obvious that although the management opposite party has reserved its right to establish the charges afresh in the event tribunal arrives at a conclusion that the inquiry held against the workman is vitiated. In view of above observations of acts and circumstances of the case the tribunal is of the opinion

that granting opportunity to the opposite party bank to prove the charges a fresh before the tribunal would be a futile exercise in the eye of law as the final order passed by the disciplinary authority on 10-11-99 has no legs to stand in the eye of law as the same, as already held, has been passed without there being any inquiry finding on record.

21. The authorised representative for the workman has also filed photocopy of Hand Book on staff Matters Vol-II Award Staff (consolidated upto 31-10-97) issued by Personnel & H. R. D. Department, Local Head Office, State Bank of India, Lucknow, which has not been objected or disputed by the representative for the opposite party bank. There is no dispute that the Allahabad Main Branch of the opposite party from where the workman was removed from the services of the bank and the Assistant General Manager, State Bank of India, Varanasi, which is party to the dispute are covered and governed by the Local Head Office, Lucknow, therefore, Hand Book on Staff Matters are applicable on the contesting parties to the dispute.

22. It has been pointed out by the authorised representative for the workman during the course of arguments that the para 20 of the aforesaid volume is on the subject of initiation of departmental proceedings during the pendency of criminal proceedings. This was the question posed by the various authorities of the bank on the above point which has been clarified by the opposite party bank referring para 521(3) of Sashtry Award that so far as the award staff are concerned if during the departmental proceedings initiated workman is put on trial in a criminal court, departmental proceedings will have to be stayed pending the completion of the trial on the strength of above it has been argued by the authorised report for the workman that admittedly the workman has been put on trial before the trial court by the opposite party bank, it was not open for the opposite party bank to have concluded the departmental inquiry against the workman and it was also not at all fair on the part of the bank to have imposed penalty of dismissal from service of the bank even without awaiting the final outcome of the criminal trial pending against the workman. On the contrary the authorised representative for the opposite party bank could not be able to satisfactorily reply the arguments of the representative, for the workman, therefore, the tribunal finds substance in the arguments of the workman's arguments and hold that it was not at all open for the management in the light of the provisions of Hand Book (supra) to have inflicted punishment upon the workman. In all event the management bank was under obligation to have waited for the conclusion of criminal trial and in case the workman would have awarded sentence in that event there is hardly any need for holding any departmental inquiry against the workman and in that event the opposite party management bank is free to dispense with the services of the workman merely on the ground that the workman has been convicted by criminal court. From this point of

view also the action of the opposite party bank cannot be sustained in the eye of law and is liable to be set aside.

23. The authorised representative for the bank has placed reliance on a number of case laws such as:

1. Union of India versus Parmananda with Permananda versus State of Haryana AIR 1989 Supreme Court 1185.

24. Tribunal has considered the above law and find that the same is not applicable to the facts and circumstances of the case which are entirely different from the facts and circumstances of the law cited above. Tribunal finds that in the above cited law decision of Administrative Tribunal has been challenged before the Hon'ble Supreme Court of India and the decisions of Administrative Tribunals cannot be equated with the decisions of the Industrial Tribunals. From this point of view the law cited by the bank is of no help to them.

25. The auth. rep. for the bank has further relied upon a decision rendered by the Hon'ble High Court, Allahabad in the case of State Bank of India versus Vinod Kumar Srivastava decided in civil misc. writ petition No. 25053 of 1998. Tribunal has carefully examined the facts and circumstances of the law cited by the bank and find that it was a case where the Hon'ble Court was of the view that non supply of report of inquiry to the delinquent employee is not fatal and inquiry cannot be vitiated merely on this ground alone unless it has been shown that some prejudice has been caused to the employee concern due to non supply of report of inquiry findings. It is not the case in the present case where the workman, has challenged the inquiry on account of non furnishing of copy of inquiry report. Rather alongwith non supply of inquiry report workman has challenged the entire action of the bank on the ground that once inquiry findings has been rejected by the disciplinary authority the same cannot be acted upon at subsequent stage for awarding punishment to the workman. Thus the law cited by the bank is distinguishable on facts and law both, therefore, the same is of no help to the opposite party.

26. opposite party has further relied upon the law laid down by Hon'ble Supreme Court of India in the case of Government of Tamil Nadu versus Rajapandian reported in 1995 Lab IC page 311. For the reasons explained in para 24 above law cited by the opposite party bank is of no help to them.

27. Likewise the other laws cited by the opposite party is either of the State Governments or Central Government therefore, they are least helpful to the opposite party which is admittedly a Public Sector Undertaking therefore no reliance can be placed on the decision of superior court, given either in the Case of State Government or Central Government.

28. For the reasons recorded above, Tribunal is of the opinion that the action of the opposite party

management of State Bank of India in awarding punishment of dismissal from service of Sri Shyam Karan Anand w.e.f. 10-11-1999 is neither legal nor justified. The opposite party bank therefore is directed that the workman be reinstated in the service within 30 days from the date of publication of this award workman is further held entitled for his entire back wages together with annual graded increment on the premises as if his services have never been removed by the opposite party bank and he will further be entitled for his seniority and all other consequential benefits.

29. Reference is answered accordingly.

SURESH CHANDRA, Presiding Officer

नई दिल्ली, 3 नवम्बर, 2006

का.आ. 4501.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार फेडरल बैंक लि. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, एनकूलम के पंचाट (संदर्भ संख्या 174/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 3-11-2006 को प्राप्त हुआ था।

[सं. एल-12012/198/98-आईआर(बी-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 3rd November, 2006

S.O. 4501.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (174/2006) of the Central Government Industrial Tribunal/Labour Court, Ernakulam now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Federal Bank Ltd. and their workman which was received by the Central Government on 3-11-2006.

[No. L-12012/198/98-IR (B-1)]

AJAY KUMAR, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ERNAKULAM

PRESENT:

Shri P. L. Norbert, B.A., L. L.B., Presiding Officer

(Friday the 27th day of October, 2006/5th Kartika, 1928

1.D. 174/2006

(I.D. 4/99 of Labour Court, Ernakulam)

Workman/Union The General Secretary
Federal Bank Employees' Union
P.B. No. 10, Aluva
Adv. Shri C. Anil Kumar

Management The Chairman
Federal Bank Ltd.
Head Office
Aluva

Adv. Shri Pathrose Mathai &
Adv. Shri Rony J. Pallath

AWARD

This is a reference made by Central Government under Section 10(1)(d) of Industrial Disputes Act, 1947 for adjudication. The reference is:—

“Whether the action of the management of Federal Bank Ltd. in dismissing the services of Sri V.G. Balakrishnan w.e.f. 6-9-1997 is legal and justified? If not, to what relief the said workman is entitled?”

2. The facts in brief are as follows:

According to the union Shri V.G. Balakrishnan, a member of the union, was a bankman of Federal Bank. While the workman was working in Pasuppara branch he was charge-sheeted on 5-3-1995 for absence without leave and for issuing cheques to third parties without sufficient fund in his account. The workman had denied the allegations in the charge-sheet by submitting his explanation on 17-5-1995. But the disciplinary authority appointed an enquiry officer and a domestic enquiry was conducted. The enquiry officer did not follow the principles of natural justice and fairness in the enquiry. His findings are perverse. The workman had submitted leave applications and medical certificates whenever he required leave. The dealing with third parties is a transaction between the workman and third party and it has nothing to do with the banking business or management. No disciplinary action can be taken on the basis of dealing with third parties. The punishment imposed is harsh and excessive. Though an appeal was filed, the appellate authority concurred with the findings and punishment was imposed by the disciplinary authority. The workman is the sole bread winner of his family. He is out of employment now. He is entitled to be reinstated with consequential benefits.

3. The management contends that the workman is a habitual absentee. He remained absent on 30 occasions from 21-2-1994 to 7-12-1994. He failed to comply with the leave rules. His past record is not satisfactory. Twice he was imposed with punishment of censure and once with the punishment of stoppage of increment for six months for unauthorized absence. He was in the habit of issuing cheques to customers after borrowing money. The cheques used to return for lack of enough fund in the account of the workman. It is a misconduct as per bank rules. The bank had to close the account of the workman during 1987 because of his misconduct in issuing cheques to third parties indiscriminately. Once he was dismissed from service for misconduct of issuing cheques to customers without sufficient fund in the account. However on appeal the

punishment was reduced and he was reinstated in service by the appellate authority on the assurance of the workman that he would not repeat the misconduct in future. Once the workman was arrested from the bank in execution of a decree of a Civil Court. The workman has misused his position as a bank employee. After initiation of disciplinary proceedings for his unauthorized absence during 1994 and for the misconduct of issuing cheques to customers without sufficient fund in the account, again he absented from duty without leave for 68 days on 18 occasions from 9-1-1995 to 27-6-1995. Hence once again he was charge-sheeted for misconduct. The enquiry officer gave full opportunity to the workman in the enquiry. The enquiry officer has not violated the principles of natural justice. On the basis of the evidence the enquiry officer found the workman guilty of the charges. The disciplinary authority imposed punishment of dismissal without notice. The appellate authority dismissed the appeal of the workman. The punishment is in proportionate to the gravity of the offence. The workman is not entitled to any relief.

4. In the light of the above pleadings the following points arise for consideration :

- (1) Is the enquiry valid?
- (2) Are the findings of enquiry officer sustainable?
- (3) Is the punishment proportionate?
- (4) Reliefs and costs.

The evidence consists of Ext. M1 Enquiry File alone.

5. Points (1) & (2)

Though a contention is raised in the claim statement that the enquiry was conducted violating the principles of natural justice and the findings of enquiry officer are not based on materials on record, at the time of hearing the learned counsel for the union fairly conceded that he is not pursuing this issue, as sufficient opportunity was given to his client in the enquiry and the findings cannot be said to be perverse. It was also submitted by both sides that since the enquiry is valid and the findings cannot be said to be perverse, the proportionality of the punishment alone need be considered by this court. Hence I hold that the enquiry is valid and findings are sustainable.

6. Point No. (3) :

Since the enquiry is valid this court need not go into the reasoning of the enquiry officer and to the findings. Two charge-sheets were issued to the workman. The first charge-sheet is Ext. E7 in Ext. M1. As per the first charge sheet there are 3 charges :

- (1) The workman was remaining absent on several occasions without complying with the leave rules from February to December, 1994;

- (2) A cheque for Rs. 3500 was issued to a customer of the bank without having sufficient fund in the account of the workman. The cheque bounced.
- (3) Two complaints were received by the bank from two persons stating that money borrowed from one person was not repaid by the workman and the price of coffee seeds purchased by the workman from another person on credit, was not paid to him.

In the second charge the allegation was that despite the disciplinary proceedings as per the first charge workman was again remaining absent on several occasions from 9-1-1995 to 27-6-1995 without complying with the leave rules.

7. For these two sets of charges a common enquiry was conducted. Three witnesses were examined and documents Ext. ME1 to ME75 were marked on management side. The Enquiry officer marked as enquiry documents, Exts. E1 to E10. All the charges, except the charge regarding purchase of coffee seeds and non-payment of price of coffee seeds, was proved before the enquiry officer. Accepting the findings of the enquiry officer the disciplinary authority dismissed the workman without notice. The appellate authority confirmed the dismissal.

8. The charge is based on para 19.5 (f) and (j) of Bipartite Settlement dated 19-10-1966 which are gross misconduct. How far this court can interfere with the punishment imposed by the disciplinary authority is dealt with in Life Insurance Corporation of India Ltd. V. R. Dandapani 2006-I L.L.J. 1329. It is observed that unless the punishment is shockingly disproportionate to the guilt the court shall not interfere. The evidence adduced before the enquiry officer is to the effect that the charge-sheeted employee remained absent during 1994 & 1995 on several occasions and Ext. ME3 to ME 25, 27, 32, 35 to 52 and 53 are his leave applications. He was proceeded against for unauthorized absence three times in the past. Twice punishment of censure was imposed by order dated 8.8.1988 and 7-10-1988. A third time punishment of stoppage of increment for six months without cumulative effect was imposed by order dated 2-2-1991. The memoranda issued to the CSE by the bank, Exts. 67 to 69 show that he was in the habit of remaining absent from 1985 onwards. His attendance register during the period 1994 is Ext. ME 56. That shows that on an average 10 days he was availing leave every month. Such being the habit of the charge-sheeted employee the management could not have taken a lenient view. The habitual absence and minor punishments imposed three times will amount to a major misconduct on a fourth occasion of similar default as per clause 19.5 (f) of the Bipartite Settlement. He was

also in the habit of issuing cheques to third parties including customers of the bank after borrowing money. Cheques used to bounce as there was insufficient fund in his account. This was against the administrative orders of the bank intimated to the employees by circulars. For such a misconduct he was proceeded against once and was dismissed from service as per the order dated 29-5-1992. Against the dismissal order the CSE approached the appellate authority. In Appeal the punishment was reduced to stoppage of increment for two years with cumulative effect and he was reinstated in service on his specific assurance that he would not repeat such conduct in future. This was flouted by CSE, which gave rise to the present disciplinary proceedings. The bank found no improvement in the conduct of the CSE. The long and constant unauthorized absence and the misconduct of borrowing money indiscriminately and attempts to evade repayments by issuing cheques knowing that there was no sufficient fund in his account, amounted to gross misconduct and warranted punishment for grave misconduct. The disciplinary authority as well as the appellate authority found no mitigating circumstances. An employee who remains absent every now and then without prior intimation or applying for leave puts the management to great inconvenience to function the office smoothly. Lending and borrowing by the bank employees are prohibited by Ext. ME 66 Circular of the bank and such activity is treated as a misconduct inviting disciplinary action. It damages the reputation of the bank and customers lose their trust in bank. The management has been tolerating the CSE for years together. No more leniency can be expected from the management. The CSE does not deserve any sympathy from the management. Considering the past history of CSE and the continuing misconduct it can not be said that the punishment is harsh or disproportionate to the guilt. I find no reason to interfere with the punishment.

9. Point No.(4) : (See Award portion).

10. In the result, an award is passed finding that the action of the management in dismissing the workman from service of the bank is legal and justified and the workman is not entitled to any relief. No cost. The award will take effect one month after its publication in the official Gazette.

Dictated to the Personal Assistant, transcribed and typed by her, corrected and passed by me on this the 27th day of October, 2006.

P. L. NORBERT, Presiding Officer.

APPENDIX

Witness for the Union : Nil.

Witness for the Management : Nil.

Exhibits for the Union : Nil

Exhibits for the Management :

M 1—Domestic Enquiry File.

नई दिल्ली, 3 नवम्बर, 2006

क्र.आ. 4502.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार फेडरल बैंक लिमिटेड के प्रबंधतात्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एनाकूलम के पंचाट (संदर्भ संख्या 68/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 3-11-06 को प्राप्त हुआ था।

[सं. एल-12012/155/97-आईआर (बी-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 3rd November, 2006

S.O. 4502.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No 68/2006) of the Central Government Industrial Tribunal/Labour Court, Ernakulam now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Federal Bank Ltd., and their workman which was received by the Central Government on 3-11-2006.

[No.L-12012/155/97-IR (B-1)]

AJAY KUMAR, Desk Officer

ANNEXURE

**IN THE CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR
COURT, ERNAKULAM**

PRESENT:

SHRI P. L. NORBERT, B.A., L.L.B. Presiding Officer
(Tuesday the 31st day October, 2006/9th Karthika, 1928)

I.D. 68/2006

(I.D. 36/98 of Labour Court, Ernakulam)

Workman/Union : The General Secretary,
Federal Bank Employee's Union
Central Officer P.B. No. 10
Aluva-683001

Adv. Shri C. Anil Kumar

Management : The Chairman
Federal Bank Ltd.
Head Office
Aluva-683001

Adv. Shri M/s. B. S. Krishnan
Associates

AWARD

This is a reference made by Central Government under Section 10 (1) (d) of Industrial Disputes Act, 1947 for adjudication. The reference is :—

“Whether the action of the management of M/s. Federal Bank Ltd. in inflicting the

punishment of reduction of basic pay by one stage for a period of one year in respect of the workman Sri K. G. Joseph, Clerk for certain allegations is justified? If not, to what relief the workman is entitled?"

2. The workman, Shri K. G. Joseph, a member of the claimant union, was a clerk in Pathanamthitta branch of Federal Bank. On the allegation of misconduct he was chargeheeted on 13-2-1990 and a domestic enquiry was conducted. The Enquiry Officer found the workman guilty of the misconduct alleged against him. The disciplinary authority imposed a punishment of reduction of basic pay by two stages for a period of two years. The workman filed an appeal and the appellate authority taking a lenient view reduced punishment to reduction of basic pay by one stage for a period of one year. According to the workman the misconduct alleged was not committed by him. He acted only in the best interest of the bank. The agricultural loan sanctioned by the agricultural field officer of Pathanamthitta branch was doubted and he expressed his doubt to the field officer mentioning that the transaction was improper and fraudulent in nature. Hence the workman refused to process the transaction. The Enquiry Officer entered his findings not based on materials and violated principles of natural justice. The workman was denied proper opportunity to adduce evidence. Hence the punishment imposed is unwarranted.

3. According to the management the workman disobeyed the direction of his superior officer. After having convinced of the purpose of loan and eligibility of the applicant the loan was sanctioned. It was for the workman to prepare vouchers and make entries in the ledger in pursuance to the sanctioning of the loan. That was refused by the workman and it amounts to disobedience and misconduct. To the charge-sheet the workman did not apply. The domestic enquiry was conducted in full compliance with principles of natural Justice. Every opportunity was given to the workman to adduce evidence and participate in domestic enquiry. The findings are based on material. The punishment imposed commensurate with the gravity of the guilt. Hence no interference in the punishment is called for.

4. When the matter came up for evidence it was submitted by learned counsel for the Union that the workman has taken voluntary retirement pending the dispute. The punishment of reduction of basic pay by one stage for a period of one year has now become inconsequential in view of the voluntary retirement. Hence it is unnecessary to go into the merits of this case. In view of the above circumstances and submission it is unnecessary to adjudicate the dispute.

5. In the result, an award is passed finding that there is no existing dispute and the action of the management, in imposing punishment of reduction of basic pay by

one stage for a period of one year, is justified. There is no order as to cost. The award will take effect one month after its publication in the official Gazette.

Dictated to the personal Assistant, transcribed and typed by her, corrected and passed by me on this 31st Day of October, 2006.

P. L. NORBERT, Presiding Officer

APPENDIX

Witness for the Union : Nil.

Witness for the Management: Nil.

Exhibits for the Union : Nil.

Exhibits for the Management:

M 1 — Domestic enquiry File.

नई दिल्ली, 3 नवम्बर, 2006

का.आ. 4503.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार फेडरेल बैंक लि. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एन्डूसेम के पंचाट (संदर्भ संख्या 71/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 3-11-2006 को प्राप्त हुआ था।

[सं. एल-12012/70/1998-आई.आर. (बी-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 3rd November, 2006

S.O. 4503.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 71/2006) of the Central Government Industrial Tribunal/Labour Court Ernakulam now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Federal Bank Ltd. and their workman, which was received by the Central Government on 3-11-2006.

[No. L-12012/70/1998-IR(B-1)]

AJAY KUMAR, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ERNAKULAM
PRESENT:

Shri P.L. Norbert, B.A., L.L.B., Presiding Officer

— (Friday the 27th day of October, 2006/5th Kartika, 1928

I.D. No. 71/2006

(I.D. 46/98 of Labour Court, Ernakulam)

Workman/Union

The General Secretary
Federal bank Employees' Union
P.B. No. 10, Aluva-683101
Adv. Shri C. Anil Kumar

Management

The Chairman
Federal Bank Ltd.
Head Office Aluva-683101
Adv. M/s. B. S.Krishan Associates

AWARD

This is a reference made by Central Government under Section 10(1)(d) of Industrial Disputes Act, 1947 for adjudication. The reference is:—

“Whether the action of the management of M/s Federal Bank Ltd. in terminating the service of the workman Smt. V.G. Rajamma, Part Time Sweeper w.e.f. 21-4-97 for the alleged reason of non-improvement of performance is justified? If not, to what relief the workman is entitled?”

2. The facts in brief are as follows:

According to the union, Smt. V.G. Rajamma, a member of the union was appointed by the management bank as a part-time sweeper at Oonukal branch w.e.f. 22-7-1996. She was put on probation for a period of six months. The immediate superior of the worker was satisfied with her work. There was no complaint from any quarter. While so, some other candidate familiar to some higher officer wanted employment as sweeper and hence the management extended the probation period of worker, by another 3 months on the ground that the worker had to improve her performance. But all on a sudden by order dated 19-4-1997 the management terminated the service of Smt. Rajamma. The action of the management is illegal and it is motivated. There was no occasion to say that the performance was not satisfactory. The worker is entitled to be reinstated.

3. According to the management, though the worker was put on probation for a period of six months her work was not satisfactory. Hence her probation period was extended by another 3 months. However, there was no improvement in her performance. Hence the management had to terminate her service w.e.f. 21-4-1997 after giving one month's pay in lieu of notice. The termination is perfectly legal and justified. There is no bad motive behind the termination. She was advised by the branch manager several times during probation period that she should improve her performance. But she did not show any improvement. As per Sastri Award a probationer can be terminated by giving one month's notice or payment in lieu of notice. No domestic enquiry need be conducted. The action of the management is legal. She is not entitled to be reinstated.

3. The only point that arises for consideration is : “Whether the termination is legal?”

The evidence consists of Exts. M1 to M3 on the side of management.

4. The Point

The worker Smt. Rajamma was appointed by Ext. M1 order dated 6-7-1996. As per the terms of the appointment order she was put on probation for a period of six months. Since the management found that the performance was not up to the level of expected standard the probation period was extended by three months by Ext. M2 order dated

14-1-1997. But the management was not satisfied with the performance despite the extension of probation period. Therefore they decided to terminate her services. By Ext. M3 order dated 19-4-1997 her services were terminated w.e.f. 21-4-1997 and she was offered one month's pay and allowances in lieu of one month's notice. As per para 522 (1) 1 (b) of Sastri Award (Page XIII of Bipartite Settlement published by H.P.J. Kapoor, 12th Edition, 2005), the services of a probationer can be terminated after giving one month's notice or on payment of one month's pay and allowances in lieu of notice. The management has complied with that provision. The petitioner was on probation and she was not regularized in service. Before that, her services were terminated. Since she was not a regular employee no domestic enquiry was required before she was terminated and she could be terminated after giving one month's notice or payment in lieu of notice. The allegation of the union, that the termination was motivated and was done in order to accommodate another candidate close to a superior officer of the bank, is not substantiated by the union. There is not even an iota of evidence regarding the allegation. No oral or documentary evidence is adduced by the union to support the allegation. The termination thus is in accordance with the law and no interference is called for. Point is answered accordingly.

5. In the result, an award is passed finding that the action of the management in terminating the service of part-time sweeper Smt. V.G. Rajamma is legal and justified. No cost. The award will take effect one month after its publication in the official Gazette.

Dictated to the Personal Assistant, transcribed and typed by her, corrected and passed by me on this the 27th day of October, 2006.

P. L. NORBERT, Presiding Officer

APPENDIX

Witness for the Union	:	Nil
Witness for the Management	:	Nil
Exhibits for the Union	:	Nil
Exhibits for the Management	:	
M1—Photostat copy of order No. Staff Adm./PR-1457/B-R 19271/96 dated 6-7-1996.		
M2—Photostat copy of letter dated 14-1-1997 issued to Smt. Rajamma from Federal Bank.		
M3—Photostat copy of letter dated 19-4-1997 issued to Smt. Rajamma from Federal Bank.		

नई दिल्ली, 3 नवम्बर 2006

का.आ. 4504.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार इटावा क्षेत्रीय ग्रमीण बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक

अधिकारी बालकुर के पंचाट (संदर्भ संख्या 70/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार की 3-11-2006 को प्राप्त हुआ था।

[सं. एस-12012/166/2002-आर. अर. (बी-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 3rd November, 2006

S.O. 4504.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 70/2002) of the Central Government Industrial Tribunal/Labour Court, Kanpur, now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Etawah Kshetriya Gramin Bank and their workmen, which was received by the Central Government on 3-11-2006.

[No. L-12012/166/2002-IR(B-I)]

AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE SRI SUMESH CHANDER PRESIDING OFFICER CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, SARVODAYA NAGAR, KANPUR, U.P.

INDUSTRIAL DISPUTE No. 70 OF 2002

IN THE MATTER OF DISPUTE OF BETWEEN:

The Chairman,
Etawah Kshetriya Gramin Bank,
Head Office 123-A Civil Lines,
Etawah U.P.

AND

Sri Yogesh Kumar Tripathi,
Zonal President
U.P. State Gramin Bank Employees Federation
C/o Sh B. P. Saxena,
426-W-2 Basant Vihar
Kanpur.

AWARD

1. Central Government Ministry of Labour, New Delhi vide notification No. L-12012/166/2002/IR (B-I) dated 30-10-02 has referred the following dispute for adjudication to this tribunal :—

“Whether the action of the management of Etawah Kshetriya Gramin Bank in imposing punishment of reduction of five annual grade increments from the existing scale of grade per month w.e.f. 10-6-2000 upon Kumari Rekha Rani is justified? If not, to what relief she is entitled for?”

2. It is unnecessary to give further details of the case in the instant case as in an industrial dispute No. 6 of 2003 Kumari Rekha Rani versus Etawah Kshetriya Gramin Bank, Etawah, which relates to her dismissal from the services of the bank w.e.f. 15-9-2000, this tribunal recorded its final

award dated 30-7-03 against the workman holding that she is not entitled to any relief in view of pleadings and proof in support of his case. In view of the same the workman has ceased to be a workman as defined under Section 2(a) of I.D. Act, 1947. Therefore according to the firm opinion of the tribunal when the workman has ceased to be a workman, the workman cannot agitate the present reference as the same has become redundant. Accordingly the workman cannot be held entitled for any relief pursuant to the present reference order.

3. Reference is therefore answered against the workman holding that workman cannot be held entitled for any relief and in favour of the management of Etawah Kshetriya Gramin Bank, Etawah.

SURESH CHANDRA, Presiding Officer

नई दिल्ली, 7 नवम्बर, 2006

S.O. 4505.—अधिकारी विवाद नियन्त्रित, 1947 (1947 का 14) की धारा 17 के अनुसार में, केन्द्रीय सरकार द्वारा रेलवे के प्रबंधतंत्र के संबंध नियोजनों और उनके कार्यकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकारण सं. II, चंडीगढ़ के पंचाट (संदर्भ संख्या 293/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार ने 7-11-2006 को प्राप्त हुआ था।

[सं. एस-41012/83/2000-आर. अर. (बी-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 7th November, 2006

S.O. 4505.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 293/2005) of the Central Government Industrial Tribunal/Labour Court No. II, Chandigarh, now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Northern Railway and their workman, which was received by the Central Government on 7-11-2006.

[No. L-41012/83/2000-IR(B-I)]

AJAY KUMAR, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH

Presiding Officer : Shri Kuldip Singh

Case No. I. D. No. 293/2005,

Registered on 11-04-2001

Date of Decision 24-08-06

Shri Jawahar Lal S/o Shri Roop Lal,
C/o Shri H. K. Gondota, Gen. Secretary,
Labour Union,
Ekta Bhawan, Pudhigar,
Amritsar (Punjab)

....Petitioner

Versus

The Divisional Railway Manager,
Northern Railway,
Ferozpur Division,
Ferozpur Cantt.,
(Punjab)Respondent

APPEARANCE

For the Workman : Mr. H. K. Gандотра

For the Management : Mr. P. P. Khurana, Advocate

AWARD

The Government of India referred the following matter for the adjudication of this Tribunal *vide* their notification No. L-41012/83/2000/IR(B-1) dated 9th March, 2001 :

“Whether the action of the Management of Railway in terminating the services of Shri Jawahar Lal S/o Shri Roop Lal is justified. If not, what relief he is entitled to and from which date?”

The reference was received and notices were issued to the parties. The Management was the first to appear through Counsel on 5th July, 2001. By that time the workman had submitted the claim petition by post. The Management filed the Written Statement on 27th Sep., 2001, on which day, the workman also appeared in person. The workman filed his claim petition and his affidavit in support of his case. He also filed an application for grant of interim relief. The Management filed the affidavit of their Divisional Engineer, Sheel Bhadra. The workman also made an application for a direction to the Management to produce complete file of domestic inquiry. The Management took notice of the application and produced the copy of the inquiry proceedings, another copy of which was given to the workman. Since the Management had held domestic inquiry, before terminating the services of the workman, and the workman has challenged the fairness of the said inquiry proceedings, therefore, the parties requested that the question of fairness of inquiry be taken up first. It was in these circumstances a matter was listed for arguments on the fairness of inquiry. The arguments were finally heard on 12th July, 2006.

The claim of the workman is that he was appointed as helper cleaner and was posted in the office of Superintendent(CNW) Ferozepur, where he joined his services on 27th Jan., 1978. He was promoted as Grade-3 Carpenter in April, 1992, and was posted with Senior Section Engineer(CNW) Amritsar; that on 25th Dec., 1995, a message was received by Coach Depot Office, Northern Railway, Amritsar from Assistant Mechanical Engineer, Ferozepur, asking the workman to attend his office on 26th Dec., 1995. However, the message was delivered to the workman on 27th Dec. at 12.30 p.m. There being a Sunday on 28th Dec., 1995, he reported to Assistant Mechanical Engineer-II on 29th Dec., 1995, on which day he was served with the chargesheet bearing No. 577/M/1/12(MII) dated

29th Dec., 1995. He was also served with another chargesheet by the Coach Depot Officer on 4th Jan., 1996, bearing Number 577/M/1/15/(MII)95, and thus the workman received two charge sheets on Form 5, bearing different numbers. The workman asked for clarification and also demanded copies of the documents relating to the allegations as the copies of the connected documents were not attached with the chargesheet. He made representation to Assistant Mechanical Engineer II Ferozepur on 8th Jan., 1996, by which he pointed out that the copies of letter dated 25th Dec., 1995 and that of statements of Kishori Lal and Rai Singh, have not been provided to him. By his subsequent letters dated 13th March, 1996, and 11th May, 1996, he again requested the Assistant Mechanical Engineer and the Divisional Mechanical Engineer, Ferozepur for providing him the copies of those documents but the same were not provided to him till 10th Oct., 1996, when he received photostat copies of statements of Kishori Lal and Rai Singh witnesses through CDO Amritsar. However, the copies did not bear the signatures of the deponents nor the same were authenticated. He brought the matter to the notice of Assistant Mechanical Engineer-II, Ferozepur and further requested for the copies of the statements of other persons like Daulat Ram, Dharam Singh, Shakti Singh and Basant who were claimed to be present at the time of occurrence. The workman was provided legible photostat copy of complaint. Thereafter, he wrote another letter to the Assistant Mechanical Engineer, Ferozepur and requested for completing the inquiry within the prescribed period of 205 days, whereas 346 days had gone by them but even the copies of the workman had not been supplied to him by them; that the Management appointed Shri R. S Saini as inquiry officer, but the workman was not given information thereto. The inquiry officer asked for 3 names of defence helper whereas the workman insisted for the supply of authenticated copies of the statements and the Hindi Translation of the complaint made by Jasmer Singh and that of statement of other witnesses. That on 12th March, 1997 the inquiry officer again asked for the names of the 3 defence helper, but the workman insisted for the supply of legible copies of the complaint and that of statements of the witnesses, so that he could name the defence witnesses, after going through the said record. He was supplied with legible photo copies of the complaint. Thereupon he wrote a letter to the Assistant Mechanical Engineer, Ferozepur but, thereafter, no proceedings took place.

It is further the case of the workman that the inquiry Officer fixed the date for proceedings on 21st May, 1997 which he could not attend due to ill health. The proceedings were then fixed for 12th and 13th Jan., and then 14th and 15th Jan., 1998. Although the inquiry was fixed at Pathankot but the workman was given railway duty pass for Jammu Tawi and it was only at Jammu, he came to know that the inquiry will take place at Pathankot. He attended to the

inquiry proceeding on 15th Jan. 1998, after coming from Jammu. On that day the statements of Kishori Lal, Rai Singh & Basant were recorded and he also cross examined them. The cross examination of Basant could not be completed and the proceedings were adjourned for 1st Feb., 1998. The workman could not attend the hearing on the date fixed being on a leave. The workman could not attend the proceedings on 11th Feb., 1998, the next date of hearing fixed as he was not provided with duty pass. The proceedings were then fixed for 21st and 22nd Feb., 1998, which he attended and on 21st Feb., 1998, on which day the statement of Basant witness was recorded to whom he had cross examined.

It is further the claim of the workman that on 21st Feb., 1998, the inquiry officer threatened him to proceed ex-parte against him and the workman requested for change of inquiry officer apprehending that the inquiry officer may be biased against him and will give finding against him. However, the inquiry officer was not changed and the proceedings continued, although he had also made the allegation that the inquiry officer has demanded Rs. 2000 for favouring the workman. The Management did not take any action on the representation of the workman and proceedings in the inquiry were held Ex-parte. That the workman received the copy of the inquiry report and he was asked to give representation within 15 days; that he filed the representation before the Divisional Mechanical Engineer, Ferozepur; who without hearing the workman, imposed the penalty of dismissal of workman from service. His appeal was also rejected by Divisional Mechanical Engineer Northern Railway, Ferozepur. He made the review petition which is still pending whereas his second appeal to the Senior Divisional Mechanical Engineer, Ferozepur was also rejected.

The workman has challenged his removal from service on a number of grounds. It is his claim that his termination is arbitrary, discriminatory, unconstitutional and in violation of principle of natural justice. It was based upon false statements; that the workman had taken insurance policy through the complainant; that the inquiry officer did not act impartially and despite the request of the workman he was not changed. The Disciplinary Authority also did not apply his mind nor it was done by the Appellate Authorities. The Inquiry officer also violated the provisions of Railway Service(Conduct & Appeal Rules, 1996). The inquiry officer acted both as inquiry officer and presenting officer as no independent presenting officer was appointed. The Management also did not provide facilities like providing of duty pass on for 11th Feb., 1998; that the Management even during the course of inquiry, through its employees, caused a lot of inconvenience to him. He has also been recognized, being a Trade Union Leader; that the workman is without job despite his best efforts to get one that the order of the disciplinary authority is bad in law, therefore, the same may be quashed and the workman

may be reinstated to the job he was doing. He may also be given all the service benefits including back wages along with interest thereon.

The Management has opposed the claim of the workman stating that the workman was habitual offender and had been misbehaving with his superiors. That on 29th Dec., 1995, he was served with charge sheet on form 5. Simultaneously, the copy of the charge sheet was also sent to him by Post, and through the Coach Depot Officer. The Clerical mistake which occurred in sending the charge sheet was clarified to the workman *vide* letter dated 24th July, 1996; that the workman was provided with authenticated documents he demanded; that it is the workman who tried to delay the inquiry proceedings and not the Management; that the management provided all opportunity to the workman to represent himself and issuance of duty pass to him from Amritsar to Jammu was a clerical mistake. The duty pass for him for 11th Feb., 1998 was prepared, but the workman did not collect it. He made the request for change of inquiry officer, deliberately, without any reason, just to delay the inquiry proceedings. Supporting the report of the inquiry as valid, it is submitted by the Management that the workman was removed from service for valid reasons and after giving him full opportunities to defend himself. His appeal was also considered under rules and was rejected for the reasons stated. Denying that any review petition was made by the workman, it is stated by the Management that the appeal made by the workman, to the Senior Divisional Mechanical Engineer, was also considered on merit. Denying that the action of the Management was arbitrary, discriminatory or against the principle of natural justice, it is again stated by them that a true complaint was filed against the workman and the inquiry was held under proper procedure. It was only because the workman did not cooperate in the inquiry that *ex-parte* proceedings were initiated against him and the speaking order was passed. The removal of workman from service was justified. Claiming that there was no necessity to appoint the presenting officer it is reiterated by the Management that the order of removal was legal and justified and it was for valid reasons that the appeal of the workman was rejected. It is the prayer of the Management that the claim of the workman is not maintainable and he is not entitled to any relief, therefore, his claim may be rejected.

The workman filed the rejoinder and reiterated the facts stated by him in his statement of claim.

Vide his affidavit the workman supported the averments made by him in his claim petition and rejoinder whereas Shri Sheel Bhadra certified the facts stated in the written statement.

It is the admitted case of the parties that the workman was serving as Carpenter Grade-3 and was posted in the office of Senior Section Engineer Amritsar when on

25th Dec., 1995, a message was received from Assistant Mechanical Engineer Ferozepur directing the workman to attend his office on 26th Dec., 1995, whereas the message was delivered to the workman on 27th Dec., 1995, and there being Sunday on 28th Dec., 1995 he reported to the Mechanical Engineer 29th Dec., 1995, Ferozepur on 29th Dec., 1995, where he was served with a charge sheet dated 29th Dec., 1995; that the Management appointed Shri R.S. Saini C.C.W-I Jalandhar as the inquiry officer. The inquiry officer held the workman guilty of misconduct and Disciplinary Authority, Assistant Mechanical Engineer II, Ferozepur, accepting the report of the inquiry officer awarded him the punishment of removal from service; that the workman filed appeal against the order of dismissal which was also rejected. To this extent there is no dispute between the parties.

The grievance of the workman is that the Management did not act properly as they did not hold a fair and proper inquiry against the workman for many reasons. The workman was not provided with proper assistance in defending himself. He was not provided with proper documents along with the Charge sheet; that the inquiry was not completed within the prescribed period of 205 days as was required by the "Railways Servants Discipline and Appeal Rules 1968". The workman was not provided with duty pass for attending the inquiry; that the management did not appoint any presenting officer and the inquiry officer acted both as inquiry and presenting officer; that the inquiry officer threatened the workman for proceeding *ex parte* against him. Despite his request, the Management did not change the inquiry officer. His appeal was also rejected without going into the facts and laws submitted. The workman has also challenged the finding of the inquiry and the decision of the Disciplinary Authority as well as of Appellate Authority on the grounds of inconvenience, he faced while proceeding to attend the inquiry proceedings and for his being a Trade Union Leader.

From his own pleadings many of the grievances raised by the workman, to challenge the inquiry proceedings, get answered. In his statement of claim, he admitted that he was served with a charge sheet on 29th Dec., 1995. He tried to raise the controversy that he was served with many charge sheet but the explanation given by the Management that, so as to ensure the service of the charge sheet, on the workman, the same was directed to be served upon him by different modes, by directly serving the same upon the workman, by sending one set thereof through Coaching Depot Officer and by sending a copy by post. The workman has failed to show whether the different sets of the charge sheet contained different charges and as to how he was prejudiced by being served with more than one set of charge sheets. It rather exhibits the sincerity of the Management to see that the workman is properly served with charge sheet and his rights are not prejudiced. There is no merit in the controversy raised by the workman in this regard. The

workman has raised the second controversy about the supply of copies of the statements of the witnesses and additional documents stating that the legible copies were not served upon him but finally he himself admitted in para 4(viii) at page 7, of his claim statement, that on 25th March, 1997, the workman had received legible photo-stat copies of complaint. He had already received the copies of the statements of the witnesses, the Management wished to examine against him. By that time no effective proceedings had taken place in the inquiry. This further shows that though the workman was raising controversies after controversies, about the supply of the documents and their legibility, the inquiry officer saw to it that no proceedings are taken so long the workman was not provided with charge sheet and proper documents and it was only after the same were provided that he started with the inquiry proceeding.

It is on record that the workman contributed in the delay in the proceedings and did not attend the proceedings on 21st May, 1997 claiming to be not well on that day. The inquiry officer then fixed the inquiry proceedings for 12th & 13th Jan., 1998 which was further advanced to 14th & 15th Jan., 1998, the workman admitted to have attended that day but raised the plea that the Management gave him duty pass from Amritsar to Jammu whereas the inquiry was to be held at Pathankot. According to him the Management unnecessarily harassed him. It is a fact that Pathankot falls on way from Amritsar to Jammu and if the workman knew that the inquiry is to be held at Pathankot then why he did not get down at Pathankot so as to attend to the proceedings. He otherwise attended the proceedings on 15th Jan., 1998. He has failed to show as to how he was prejudiced by the issuance of duty pass in his favour upto Jammu whereas inquiry was to be held at Pathankot. The fact is that during his absence, the inquiry officer did not proceed further into the inquiry and it was only when he appeared before him, on 15th Jan., 1998; that the inquiry was held and statements of Kishori Lal, Rai Singh were recorded. The cross-examination of Basant could not be completed on that day and the proceedings were adjourned for 26th Jan., 1998. On that day also the proceedings could be held since the workman went on leave. It was in those circumstances that the inquiry was fixed for 11th Feb., 1998.

The workman here again raised the controversy that the Management did not provide him duty pass for attending the inquiry at Pathankot on 11th Feb., 1998, a fact which has been denied by the Management. It is their claim that the Management had prepared the duty pass under No. 521101 dated 9th Feb., 1998, but the workman did not come to collect the same. Therefore, the duty pass could not be handed over to him. It may be noted here that the workman raised the controversy that he was given duty pass from Amritsar to Jammu Tawi whereas the inquiry had been fixed at Pathankot. This shows that the workman had earlier received the duty pass and so he knew as to

where from the duty pass was to be collected. He has no where claimed that he went to the office where from he had earlier collected the pass and demanded the duty pass but it was not given to him. His making the allegation that he was not given the duty pass for attending the inquiry proceedings on 11th Feb., 1998 is a manipulated allegations and cannot be treated to be based on any evidence. The Management could not be expected to have run after him to receive the duty pass and then attend the inquiry proceedings. The duty of the Management could be to facilitate the workman to attend the inquiry proceedings and it cannot be said that they were to cause the presence of workman in the inquiry even if the workman did not have the intension to attend the same. The allegation of the workman, in this regard, is without any merit and the same is rejected.

The next allegation of the workman is that the inquiry officer threatened him to proceed against him as *ex parte*, therefore, the workman felt that the inquiry officer, may be biased against him and he requested the Management to change the inquiry officer, but the Management did not accept his plea. I fail to understand as to how the inquiry officer was biased against him, if he, at all, told the workman that he would proceed *ex parte* against the workman. In legal connotation, it is known that the party is put *ex parte* when he/she does not attend the proceedings or does not comply with the directions of the Court. Although the workman has not stated as to what prompted the inquiry officer to tell that the workman shall be proceeded against *ex parte*. However, from the facts available it can be made out that since the workman was not attending the Court proceedings regularly and was also creating obstacles in the conduct of inquiry proceedings on flimsy grounds, therefore, the retort from the inquiry officer could be inspected. However, his previous conduct had shown that he was very impartial and followed the principles of natural justice. In my opinion this could not be the ground with the workman to seek his shifting. The workman, as per his own admission, did not attend the proceedings thereafter and it shows that he wanted to use the comment of the inquiry officer, as a plea to absent from proceedings and he infact used it. To my mind the Management was right not to change the inquiry officer. It is interesting to know that the workman further made the allegation that the inquiry officer had demanded a sum of Rs. 2000 from the workman for favouring him in the inquiry, but the workman did not produce any evidence to substantiate the allegations whereas the Management categorically denied this allegation. This further shows that the workman was interested to delay the inquiry proceedings as far as possible.

During the course of arguments the Counsel for the workman submitted that the complainant was biased against the workman since they had a dispute about the life insurance policy, obtained by the workman. In support of

his claim he referred to the statements of Basant, Kishori Lal and Rai Singh. I do not find any support about this allegation although there came a reference in the claim petition and in the statements of the witnesses. This plea was not taken by the workman at the time of arguments as he had failed to produce any evidence in support of it. Even if there was any such transaction between the two, a subordinate official was not supposed, behave with his superior officer in the manner he is shown to have behaved with the complainants. This plea of the workman cannot help him to show that the inquiry officer was unfair to him and on that account the inquiry report should be quashed.

The workman has also challenged the inquiry on the ground that the Management failed in its duty by not appointing a presenting officer; and that the inquiry officer combined his role and acted both as inquiry officer and presenting officer. The workman has however, not shown as to how he was prejudiced because of the absence of the presenting officer, rather the absence of presenting officer could be helpful to him as the job of the presenting officer was to present the case of the Management and his presence is not likely to benefit the workman in any manner.

The next allegation of the workman is that the inquiry officer combined his role as a inquiry officer as well as presenting officer. I have gone through the statements of the witnesses produced by the parties but I do not agree with him. The duty of the inquiry officer was to find out the truth in the allegation levelled against the workman. For that purpose he could put any question to the witnesses at any stage and in any manner. As it appears from the record he put direct questions to the witnesses and the manner in which the questions were put by the inquiry officer, it cannot be said that he was helping the Management or that he performed the role of presenting officer also. The law is well settled that an inquiry officer is not bound by the strict rules of law of evidence. What is required of him is that he should provide reasonable opportunity to the workman to defend himself.

The grievance of the workman against the holding of *ex parte* inquiry is also without any merit as he had not taken the part in the inquiry at his own, after taking part in the earlier sittings of the inquiry. He has nowhere claimed that he had reasons not to take part in the subsequent proceedings. His claim, which can be made out from the pleadings, can be that since the Management did not change the inquiry officer, therefore, he could afford to disassociate with the inquiry. It was not expected of the Management to agree with all his whims and it has been discussed above that the workman was not justified to seek the shifting of the inquiry officer. The Hon'ble Supreme Court in the case of Major U.R. Bhatt *V/s* Union of India, reported as AIR 1962 SC 134 has laid down the law that when the concerned workman declines to take part in the proceedings and fails to remain present during the inquiry, it was open to the inquiry officer to proceed on the material

which was placed before him. Thus the workman if disassociated himself with the inquiry, he did so at its peril and on that count the inquiry cannot be held to be unfair. After going through the inquiry proceedings and appreciating the points raised by the workman in the pleadings, during the course of arguments, I am of the opinion that the Management had provided full opportunity to the workman to defend himself. The inquiry officer took all pains to see that the workman gets full opportunity to present his case and he followed the provisions of law, rules and the principles of natural justice. He also came to a right conclusion that the workman was guilty of misconduct.

Now the question comes whether the punishment awarded to the workman was proportionate to the misconduct proved to be committed by the workman. So as to come to any conclusions in this regard, it has to be noted that the workman, on the day of alleged occurrence, had put in about two decades of service for the Management and during that period he had even been given the promotion. In the charge sheet there was no allegation that the conduct of the workman during his service period was similar on earlier occasions also or he was ever tried or punished for his misconduct. I noticed that the complainant in his complaint and the Management in their pleadings made the allegation that the workman was earlier also discharged for having committed similar offence, but the Management did not produce any charge against the workman on that account. The principle is that unless the charge is levelled against the workman, for his previous conduct and he is given chance to explain that the said charge cannot be read against him. Therefore, I take it that the work and conduct of the workman was alright till the date of alleged occurrence. It has also come in the evidence that the alleged incident took place as the workman tried to raise voice or the grant of leave to a co-worker and there is claim of the witnesses of the Management that the workman was under the influence of liquor, although there is no evidence to show that he had taken liquor or any FIR was registered against him in that regard. This shows that the incident was so minor that the Management did not thought of registering the case against the workman nor he was got examined by the doctor to find out whether or not he had taken liquor. As per record, the workman has been punished for his single lapse of not properly behaving with his senior. To my mind the punishment of removal from service of a person who had put in, by them, more than 2 decades of service was too harsh and disproportionate to sustain. The Disciplinary Authority should have kept in mind, at that stage, that the workman is not likely to get Government job because of his age and for his sin the whole of the family shall suffer. If the Management did not think of giving him strong warning or a lesser punishment of reduction to the lower scale in the time scale for a specified period or for all times to come,

they were not expected to award him the extreme punishment of dismissal from service. The punishment awarded is shockingly disproportionate. I, therefore, taking into account the evidence available on record, the previous conduct of the workman, set aside the punishment awarded. To my mind, the punishment of his compulsory retirement from service would meet the ends of justice. In this regard I am supported by the judgment of Supreme Court reported as (1996) 1 LLJ 982 in the case *M. Chan Singh v/s Jaipur Melat* to that of his removal from service. Therefore, I substitute the punishment of compulsory retirement of the workman w.e.f. the date of order of the disciplinary authority removing the workman from service. His period of suspension shall count from his retiral benefits only and not for arrears of salary of that period.

The award is passed in these terms. Let a copy of this award be sent to the appropriate Govt. for necessary action and file be consigned to records after due completion.

KULDIP SINGH, Presiding Officer

नई दिल्ली, 7 नवम्बर 2006

का.आ. 4506.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार स्टेट बैंक ऑफ इंडिया के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण सं. II, चंडीगढ़ के पंचाट (संदर्भ संख्या 535/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 7-11-2006 को प्राप्त हुआ था।

[स. एल-12012/25/91-आई. आर (बी-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 7th November, 2006

S.O. 4506.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 535/2005) of the Central Government Industrial Tribunal/Labour Court, No. II, Chandigarh now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of State Bank of India and their workman, which was received by the Central Government on 7-11-2006.

[No. L-12012/25/91-IR(B-1)]

AJAY KUMAR, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT II, CHANDIGARH

Shri Kuldip Singh, Presiding Officer

Case I. D. No. 535/2005

Registered on 22-08-2005

Date of Decision : 31-08-2006

Shri Jagdev Singh S/o Shri Sham Singh
R/o V.P.O. Kundal,
Tehsil Abohar,
District FerozepurPetitioner

Versus

The Regional Manager,
State Bank of India,
S. Co. 103-110, Sector-17-B,
ChandigarhRespondent

Appearance

For the Workman : Mr. Sameer Sachdeva
For the Management : Mr. A. K. Kohli, AR

AWARD

The reference which this Tribunal has received from the Government of India under their No.L-12012/25/91-IR(B-III), dated 28th June, 1991, is in the following terms :

“Whether the action of the Regional Manager, State Bank of India, Region-V, Chandigarh in terminating the services of Shri Jagdev Singh S/o Shri Sham Singh, Godown Durban and appointing fresh hands in contravention of Section 25 H of the I.D. Act, 1947 is legal and justified? If not, to what relief the concerned workman is entitled to and from what date?”

After the reference was received the parties were given notice thereof and they appeared through their Counsel. The workman filed the claim statement and the Management filed their Written Statement. The workman filed his rejoinder and affidavit whereas the Management filed the affidavit of their witness M.L. Talwar. The parties also filed the photo copies of the documents in support of their respective claims. The workman appeared as a witness and proved his affidavit whereas the Management examined Shri M.L. Talwar as their witness. The parties have also submitted the written arguments duly supported by the judgments they rely upon.

I have gone through the file and have also considered the submissions made by the parties.

This Tribunal is required to state whether the action of the Regional Manager in terminating the services of workman and appointing fresh hands in contravention of Sec. 25-H of Industrial Disputes Act, 1947, for short Act, is legal and justified? If not, to what relief the workman is entitled to?

The claim of the workman is that he had served the Management as Durban of the Godown in their Fazilka, Punjab Branch from 10th Nov., 1983 to 6th Feb., 1984, when his services were terminated without any chargesheet, inquiry or notice although the post on which he was appointed was permanent in nature; that the Management appointed fresh hands on the post and did not provide the workman an opportunity to work thereon. The

Management, therefore, violated the provisions of Sec. 25 G & H besides Para 495 of the Shastri Award. Citing the examples of some cases, decided by the Supreme Court it is claimed by the workman that the Management rejected his prayer on the ground that he has no left arm whereas the Govt. instructions are that the handicapped persons should given preference in jobs. He has shown his willingness to work on any job provided by the Management, claiming that he is without service since the date of his disengagement.

The claim of the Management is that the petition is not maintainable for laches as the workman has approached the Court after a period of seven years and the petition is bad for Mis-joinder of the parties and for not disclosing true facts. The petition is also not maintainable as the workman is not eligible for the post he is claiming nor his appointment, which was irregular even initially could be regularized. The Management has stated the facts of the case in nutshell, in the manner, that the workman was engaged as temporary Godown Durban from 10th Nov., 1983 to 6th Feb., 1984 at their Fazilka, Punjab Branch and his engagement was for seasonal work that is, during paddy season. Thereafter he was disengaged; that the workman was given chance to compete for a regular appointment and he was interviewed on 7th July, 1989, but was not found suitable for the post on medical grounds as his left upper limb was amputated up to the shoulder joint. Denying that the services of the workman were terminated arbitrarily and in violation of provisions of Shastri Award, it is stated by them that the workman was not served by any charge sheet and as the appointment of the workman was seasonal in nature, it ended with the end of the season and it was in the knowledge of the workman. Therefore, there was no question of giving him any notice.

The Management further denied the contents of Para 3, 4, 5 and stated that the Management did not violate the provisions of Section 25 G & H of the Act. However, the case of the workman was considered for permanent appointment in the subordinate cadre, but he was not found fit. Contesting the applicability of the judgments submitted by the workman, it is stated by the Management that the workman was not selected for permanent appointment because of his lack of eligibility on the health ground. They have also contested the claim that S/Shri Banwari Lal, Baldev Singh and Ganpat Rai were similarly placed with the workman. It is also claimed by the Management that the workman was having the disability of the amputated left upper limb and so his ability to function was hampered, therefore, he could not be selected nor there is any other post on which he could be adjusted.

The workman filed rejoinder and almost reiterated the facts he stated in the Claim Petition.

I have gone through the file and have also considered the submissions made by the representatives of the Management and Counsel for the workman.

I find that the parties are not at altogether variance about the facts alleged and admitted by the Management. The undisputed facts are that the workman was engaged as Durban in the Godown of Management at their Branch at Fazilka, Punjab, where he served from 10th Nov., 1983 to 6th Feb., 1984. The workman claims that his services were terminated on the last date of engagement whereas the Management claims that he was engaged as a seasonal workman during the season of paddy and on the conclusion of that season, the workman got disengaged automatically as his period of engagement was not extended.

The further claim of the workman is that the Management violated the provisions of Sec. 25-G & H as they engaged fresh hands for the post on which he had worked. That he was not considered for permanent appointment merely on the ground that his left hand was amputated from the shoulder joint, which restricted his ability to function. However, the witness of the Management in his statement, before this Court, admitted that as per the notice of appointment, issued by the Management, there was reservation for physically handicapped persons for appointment as a Peon, that is, for subordinates staff. According to him as per the advertisement there was also relaxation of age up to 10 years in their favour. Thus the reasons given by the Management in not selecting the workman on permanent post, was not available to them. Also for the reason that the workman had worked for the Management right from the year during 1983-84 although his arm was amputated since 1969 and the disability did not effect in his ability to function as subordinate staff. It is true that the Management examined Mr. M.L. Talwar, as their witness in this Tribunal who stated that the workman was not entitled for employment being without left arm. He admitted that during his engagement as Godown Durban no inconvenience was felt by the Management. According to him handicapped person are not eligible for appointment on Class IV Category post. He admitted that as per Exhibit W-2, 40% post were reserved, in Class-IV category, for the handicapped person, but it depended upon the capability of handicapped person whether he could perform his duties of gate keeper and security guard with an amputated arm.

Hon'ble Supreme Court of India in the case reported as 2003 SCC 721 titled as *Bhupender Singh Sachdeva V/s Punjab & Sind Bank and others*, has laid down that terms and conditions of service of State Bank of India are governed by statutory rules in matters other than pension which is governed by statutory rules. According to their lordship the services of the employees of the Nationalized Banks and State Bank of India are same in terms of Article 12 and service conditions of their employees are governed by statutory orders and Bi-partite Settlements. Therefore, the Banks cannot terminate the services of their employees by hire and fire policy.

The Management has relied on the reference book on stock matters consolidated up to 31st Dec., 1985, volume

2. This regulation in Article 38 contains that candidates with physical disability such as loss of sight in one eye provided, the other eye is normal without glasses. According to this regulation loss of arm(s) will render the candidate unfit for appointment in the subordinate cadre. The Management has relied upon this provision and submitted that since the workman had an amputated arm up to the shoulder joint, therefore, he was unfit for appointment on the post he claims. Against this the workman has relied upon "The persons with Disabilities Act 1955", Sec. 33 of which reads that every appropriate Govt. shall appoint in every establishment such percentage of vacancies not less than 3% for persons or class of persons with disability of which 1% each shall be reserved for persons suffering from blindness or loss of vision, hearing impairment and locomotive disability or cerebral palsy in the post identified for disability. As per this provision the appropriate Govt. was required to frame rules and identify the posts carried on in any department or establishment by a notification keeping in mind the type of work carried on in that department and may exempt any establishment from the provisions of this Section. Thus we find that the provision relied upon by the workman was not applicable unless the Govt. framed rules and defined as to what disability is amounted to. So long the rules were not framed, the provisions enacted was inapplicable. In this case the Management has relied up on the regulation made by the Management as consolidated up to 31st Dec., 1995. According to Article 38 of these provisions loss of arm(s) or leg(s) rendered the candidate unfit for appointment in the subordinate cadre. Against this provision the workman has not shown any law to support his contentness that since the workman had shown his ability to function as Durban of the Godown of the Management for the period he served the management, therefore, he was eligible for appointment. Moreover, the discretion lied with the competent authority to decide as to whether a particular person was eligible for appointment or not. The workman could only claim his consideration which he admitted, had been done in his case. The Management has shown their clean breast when claimed that since the workman did not fulfill the criteria of the physical standard fixed, therefore, in terms of article 30-A of the rules and regulation as referred to above he was not entitled for appointment as subordinate staff of the Bank.

As regards the appointment of fresh hands, the management stated that the persons named by the workman were not placed in the situation the workman was. The workman, on his part, has failed to produce any evidence to show as to how the persons named were placed in his situation. By appointing those persons, the Management did not violate any law for the reasons that the workman was also considered for appointment and because of his ineligibility on the grounds of his physical standard he could not be appointed. It is not the case of the workman

that M/s. Baldev Singh, Mohinder Singh and Ramesh Kumar also fell in his category. Neither it is alleged nor proved. The workman has also failed to show that 40% reservation was for all sought of handicapped persons, for appointment on Class-IV posts. He has not been able to show me any rule and regulation in this regard and merely admission of witness of the Management will not prove that there was such a reservation for all handicapped person cannot give the right to the workman for appointment as there could not be unguided reservation for the reason that it was not a question of providing bread and butter to the handicapped person but also that a handicapped person should not be ignored if he is in a position to serve the management on the post where he could be useful to the Management like a physically fit person. That is why provision to Section 33 of "The Persons of Disabilities Act 1955" contained that the appropriate Govt. will notify the conditions to which the reservation policy contained in that Act shall be enforced in a department or establishments so as to make those establishments open for recruitment to the disabled persons. The idea behind was clearly that the faculties of disabled person should be utilized otherwise he is likely to be a burden on the society and unguided recruitment would affect the finances of the establishment and there cannot be such a reservation for any category of persons.

After going through the submissions made by the parties and the evidence produced I am of the opinion that the action of the Management in relieving the workman and making appointment of fresh hands was not in violation of Section 25-H of the Act nor then action of the Management amounted termination of services of the workman. The action of the Management was neither illegal and nor unjustified. It was a case of termination of services, but disengagement by afflux of time as the workman has failed to show that his engagement was not seasonal during the period of procurement of paddy and his recruitment on permanent post could not be made for the reasons that he was physically fit although, he was given chance to compete in terms of the settlement between the employees union. The workman is, therefore, not entitled to any relief. The award is passed against him. Let a copy of this award be sent to the appropriate Govt. for necessary action and the file be consigned to records after due completion.

KULDIP SINGH, Presiding Officer

नई दिल्ली, 7 नवम्बर, 2006

का.आ. 4507.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार स्टेट बैंक ऑफ इंडिया के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकारण सं. II, चंडीगढ़ के पंचाट (संदर्भ संख्या 328/2005) को

प्रकाशित करती है, जो केन्द्रीय सरकार को 7-11-2006 को प्राप्त हुआ था।

[सं. एल-12012/245/90-आई. आर. (बी-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 7th November, 2006

S.O. 4507.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 328/2k5) of the Central Government Industrial Tribunal/Labour Court No. II, Chandigarh now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of State Bank of India and their workman, which was received by the Central Government on 7-11-2006.

[No. L-12012/245/90-IR(B-I)]

AJAY KUMAR, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH

Presiding Officer : Shri KULDIP SINGH

Case No. I. D. No. 328/2k5,

Registered on 04-03-1991

Date of Decision 28-08-2006

Milap Chand S/o Shri Chuhar Singh*

House No. 2259, Sector-37-C,

Chandigarh

....Petitioner

Versus

Regional Manager,

State Bank of India,

Zonal Office Haryana,

Sector-8-C,

Chandigarh

....Respondent

Appearance

For the Workman : Mr. Raj Kaushik, Advocate

For the Management : Mr. Harish Chander Gupta, Advocate.

AWARD

The following matter was referred by the Government of India for the adjudication by this Tribunal under their reference No. L-12012/245/90-IR(B-I) dated 26th/28th February, 1991:

"Whether the action of Regional Manager, State Bank of India, (Region-I) Zonal Office, Haryana in discharging Shri Milap Chand w.e.f. 27-1-1988 is legal and valid? If not, then to what relief the workman is entitled to and from which date?"

The notice of the reference was issued to the parties who appeared through their Counsel. The workman filed his Claim Petition on 1st October, 1991, to which Management filed the Written Statement on 4th November,

1992. The workman filed his affidavit whereas the Management filed the affidavit of their, Deputy Manager Mrs. Rakesh Sharma. The Management produced the photo copies of the inquiry proceedings held against the workman. They also produced some documents. The workman his own appeared as a witness whereas the Management examined Mrs. Rakesh Sharma, as their witness.

The claim of the workman is that he had joined the service with the Bank as Armed Guard in November, 1970. At that time he submitted the documents pertaining to his age, qualification and the discharge book; that his apparent age at the time of enrolment in the army was shown as 16 years and he was shown 26 years old at the time of his retirement from the army. The date of his birth was not recorded by the Armed forces; that it was during the period of his service with the Bank that an addition was made in the discharge book, showing his date of Birth as 10th October, 1938, without the knowledge of the workman. That at the time of submitting enrolments form to the Provident Fund, his application form was filled by Shri Anand Prakash, an employee of Punjab University Branch of the Management and his date of birth was shown as 6th April, 1938; that the date of his birth was calculated on the basis of the discharge book which shows that his date of birth was not recorded in discharge book when the same was submitted to the Bank Authorities. Thereafter it remained in their custody.

It is further the case of the workman that after he had served the Management for 18 years he was told that there is ambiguity in the date of his birth and he was asked to explain. It was alleged that a wrong date of his birth was entered in the record of the Management. The workman submitted the explanation and claimed that his date of birth is 6th April, 1938 as was shown in the Provident Fund Application, however, his explanation was not accepted and he was charged with the allegation of having made a false statement to the Management with regard to his date of birth. Thus he was charged with Gross misconduct in terms of Para 12 i(a) of Bipartite Settlement dated 17th September, 1984; that the charge levelled against him was false since three different dates of his birth were shown in three different documents, such as discharge book, banker's proforma prepared by the officers and enrolment form; that the Management conducted an inquiry against the workman through Sh. R.R. Aneja and Sh. G.S Dheer was the Presenting Officer; that nothing could be established against the workman and his date of birth was wrongly shown as 10th October, 1938. It was the officials of the Management who had calculated the age of the workman; that the date of birth of the workman was shown by the officials of the Bank as 6th April, 1938, after calculating the same with the help of the discharge book. The date of birth was not recorded on the basis of any document. The discharge book did not contain any date of

birth when submitted. If the date of birth was recorded 10th October, 1938, then why the date of birth was shown as 6th April, 1938, in the service sheet as well as Provident Fund Proforma. In any case nothing could be attributed to the workman; that neither the reply, given by him was considered by the Regional Manager nor the same was taken note of by the Appellate Authority; that the Management violated the provisions of Sec.25-F(d) read with section 2(00) of the Industrial Dispute Act, 1947, hereinafter to be referred as Act. The inquiry proceedings were bad in law since the same were initiated without any basis nor there were any reasons with the Management to discharge the workman from service before time. The Management further made the mistake by discharging the workman from service without paying him retrenchment compensation. He has prayed for declaring the action of the Management in discharging the workman from service as illegal and unjustified and for giving him the relief of reinstatement in service from the date he was discharged and of payment of back wages.

The Management has raised preliminary objection to the maintainability of the Claim Petition on the ground that the Management held a departmental inquiry against the workman, for the act of misconduct committed by workman by making alteration in his date of birth and the Disciplinary Authority, after giving the chance of personal hearing to the workman, which he did not avail of took a compassionate view of the matter and only discharged him from service. The Appellate Authority did not find any reason to interfere with the punishment awarded and confirmed the discharge of the workman from the service of the Bank w.e.f 27th November, 1988. On merits, they admitted that the workman had submitted the discharge book at the time of his appointment as Armed Guard on 3rd November, 1969; and that the workman had submitted the papers about his age and qualification to the Management that the workman was held guilty for making alterations in the discharge book certificate. It was for that act he was discharged from the service of the Bank. The material alteration done by the workman came to the notice of Deputy Branch Inspector on November, 1983. Thereupon the matter was taken up with the army authorities and it was they who reported that the date of birth of the workman was 7th October, 1934. They denied the claim of the workman that he had not filled in his date of birth rather no date of his birth was recorded in the discharge book. Denying the claim made by the workman in paras 3, 4, 5 & 6, it is stated by them that after holding the workman guilty for having materially changed in his date of birth he was discharged from service. Describing the contents of para No.7 of Claim Petition as vague, it is stated by the Management that they did not feel satisfied with the reply of the workman, therefore, the departmental inquiry was held against him. Admitting that Sh. R R Aneja was appointed as inquiry officer, the Management stated that

the workman was given full opportunity to defend himself in the inquiry; that the disciplinary authority took a compassionate view of the matter and instead of dismissing him from service, discharged the workman from the service; that the order of the Disciplinary Authority and that of the Appellate Authority order were speaking orders, issued after due application of mind; that since the disengagement of the workman was by way of discharge, therefore, he was not entitled to any retrenchment compensation or payment of wages. Denying the contents of other paras of the Claim petition it is prayed by the Management that the case of the workman be dismissed here. The workman filed his affidavit and also appeared as a witness in the case. He proved his affidavit which was exhibited as W-1. When Cross-examined by the Management he stated that his date of birth is 7th October, 1938; and that he had written letter M1 to the Regional Manager that he does not possess any certificate showing his date of Birth as 7th October, 1934. He admitted that there was minimum upper age prescribes for recruitment in the army and that the army had maintained the record of his date of birth. He further admitted that he had disclosed his date of birth by tendering a birthcertificate as well as school leaving certificate. He further admitted that the discharge certificate was correct and was based upon the declaration made with regard to date of birth; and that at the time he received the discharge certificate the particulars regarding his date of birth and other details had already been recorded by the army authorities; that as per the discharge certificate his date of birth was 7th October, 1934. He denied having fabricated the date of birth in order to be entitled for grant of pension.

Mrs. Rakesh Sharma, who appeared as a witness for the Management, proved her affidavit which was exhibited as M2 she submitted the inquiry file Exhibit M3. When cross-examined, she stated that the date of birth of the workman was recorded as 10th October, 1938, in the photostat copy of the discharge book and there was over writing in the date of birth as recorded in the said book. His date of birth was given as 6th April, 1938, in the Provident Fund Department; that the workman had submitted his discharge book to the Bank in the year 1969, at the time of his appointment. That the workman had access to his service record although it was in the custody of the Bank. She could not say who had given the date of birth of the workman as 6th April, 1938, in the Provident Form and who had filled that form. She could also not say whether the army authorities had recorded the date of birth of the workman in the discharge book certificate. It was in the year 1983, when it was revealed that there is tempering in the date of birth of the workman, therefore, the matter was taken up with the army authorities that the provident form was filled up on the basis of service record.

I have gone through the file and have also considered the arguments submitted by the parties in writing.

The claim of the workman is that his discharge from service by the Management is bad, illegal and is liable to be set aside for the reason; that the charge sheet served upon the workman was without any basis. That the workman has submitted his service record at the time of joining the service with the Management Bank and with all along remaind in their possession, under lock and key. The workman had no excess to it. That the Management did not held a fair inquiry, as he was not given proper and reasonable opportunity to prove his innocence. It is further his claim that even in the inquiry it could not be established as to who had tempered with the date of birth of the workman as recorded in the discharge certificate. According to him the discharge certificate remaind in possession of the Management right from the day of engagement of the workman, therefore, there was no possibility of tempering with it during that period. That the authorities of the Bank had checked the discharge certificate at the time of offering the job to the workman. They had further the occasion to examine the date of birth at the time of preparing his service sheet and submission of Provident Fund Application, in the year 1970. Had there been any tempering with the date of birth the same could have been detected. It is also not proved whether the date of birth was changed to 6th April, 1938 or from 10th October, 1938 and at what stage the same was done.

Giving the narration of the entries in the discharge certificate it is claim by the workman that at the time of his discharge, the army authority had not recorded his date of birth they had only recorded date of birth/apparent age as 16 years. According to him the date of birth column was crossed and only apparent age at the time of retirement was recorded by the authorities as 26 years, therefore, his date of birth was not recorded in the discharge certificate at the time of his retirement from the army. According to him the recording of his date of birth as 10th October, 1938 was done during the period the discharge book remaind in possession of the Bank authorities. The reliance of the inquiry officer on presumptions that since the workman failed to produce school leaving or birth certificate and the beneficiary of the change of the date of birth could only be the workman, therefore it could be he, who must have tempered with the date of birth and none else.

The workman has claimed that his date of birth in the service sheet was recorded as 6th April, 1938, by the officials of the Bank, after counting the years of his age on the basis of his discharge book and the said entry was not based on any said certificate. He has questioned that if his date of birth was 10th October, 1938, then why it was recorded as 6th April, 1938 by the Bank authorities in the provident fund proforma. He has also claimed that the inquiry officer rightly proved issue No. 1 in favour of the workman stating that it was not the workman who had tempered with the date of birth in the service book. It is also claimed by the workman that the moment the

Management condoned the alleged misconduct of the workman it would mean that there was not sufficient evidence with the Management to bring home the charge. And in that case his discharged from the service was termination which amounts to retrenchment and a retrenchment without following the provisions of Section 25-F of the Act became illegal and bad in law.

The workman has also claimed that presuming but not admitting, that his date of birth, was 7th October, 1934 then also he was to retire in the year 1994 whereas the Management discharged him from service in the year 1998. Alternatively it has also contented by the workman that even his misconduct taken to be proved then also the punishment of removal from service, awarded to the workman was very harsh as the same was not in any way less than a capital punishment for a poor man. He has prayed for a lesser punishment in the exercise of power under Section 11 A of the Act.

The claim of the Management is that the workman has no case to get the relief he is seeking. According to them after his retirement from Army service the workman was appointed as Guard in the Bank on 3rd November, 1969. At that time he submitted his discharge book; that though as per the defence record his date of birth was 7th October, 1934 the workman by alteration changed it to 6th April, 1938; that during the audit the alteration in the date of birth was detected and disciplinary action was initiated against him. He was provided with full opportunity to defend him. After holding a fair inquiry the inquiry officer recommended the discharge of the workman from service as it was proved that the workman had concealed the material facts. It is on record that during the inquiry, the workman claimed that his parents had told him that his date of birth is 6th April, 1938. He could not explain then how the army authorities recorded his date of birth as 7th October, 1934. He claimed that he had given the same very date of birth to the army authorities and he could not say why they did record the same. Thus, the explanation given by the workman as to how and why the army authorities recorded his date of birth as 7th October, 1934 is not very satisfactory. It is further claimed by the Management that the workman did not provide any record to show his date of birth other than 6th April, 1934. According to them he tempered with the service record so as to make him eligible for becoming the member of the pension scheme, as he could not be the member unless he was upto the age of 35 years.

I have considered the rival submissions of the parties with a view to examine whether the Management had conducted a fair and proper inquiry in the case. After going through the record I find that the workman has utterly failed to show that a fair and proper inquiry was not conducted in the case. There is on record photo copies of the inquiry proceedings which show that the workman admitted to have received the charge sheet and further

admitted to have understood the same. He denied the charge and nominated Sh. N. K Gupta as his representative to defend him in the inquiry. He also admitted to have received the photo copies of the list of documents which the Presenting Officer desired to prove against him and requested the inquiry officer to give him the time to submit the list of the documents and witnesses which he desired to produce in the case. At his request the inquiry proceedings were adjourned to make him to appear in this case.

The proceedings could not take place on 20th April since the representative of the workman was out of station. On 4th May, 1987 the inquiry officer asked the workman to give a list of witnesses, he intended to produce and of documents he would rely upon but the workman sought the permission of the inquiry officer to put some questions to the Presenting Officer, which the inquiry officer allowed. On a question from the workman the Presenting Officer admitted that the discharge certificate of the EPA remain in possession of the Bank. He however could not say whether the same was in the possession of Bank before the permanent adjustment of the workman as the same could be verified only from the record. He asked the workman to give list of the documents he desired from the Bank. On this, the workman desired to know from the Management the questions 1 to 6 but the inquiry officer, allowed providing of information with regard to question No. 6 only and advised the workman to reply the questions himself. The Management provided the extract of service sheet of the workman as desired by him. The EPA then made the statement and claimed that as per the date of birth sheet his date of birth was 6-04-1938 and that his date of birth could not be changed thereafter as no employee could have access to the record and, therefore, there is no question of his tempering the date of his birth. He also contested the information about his date of birth supplied by the army Authority.

On a question by the Presenting Officer, the workman stated that he had submitted his discharge certificate at the time of his initial appointment and he did not submit any other document at the time he was permanently absorbed. He denied to have ever felt the necessity of the discharge book thereafter. He claimed that he did not study in any school and gained the qualifications only in the army. He further claimed that he was told by his parents that his date of birth is 6th April, 1938. He further claimed that he was given the same date of birth to the army authority and he could not say why they recorded his date of birth as 7th October, 1934. He admitted that the minimum age for recruitment in the army was 16 to 18 years.

It is on record that the Management produced the army discharge certificate of the workman and even a cursory look at it, shows that in the column relating to date of birth/apparent, it was recorded that he was of 26 years old when the entries shown to have been made on

22nd March, 1965. His date of enrolment in the army was shown to be 6th April, 1955. He was transferred to reserve establishment, after having put in ten years of service as regular, on 23rd May, 1965. Thus the discharge book shows that the date of birth as 10th October, 1938, was recorded afterwards as it is written in such a manner which shows even to a naked eye that it was written later on. Who did it has not been proved in the inquiry, but the possible benefit of such a change would have gone only to the workman. The workman did not alleged as to who would have possibly changed his date of birth and to what purpose. The Management was provided with an extract of the enrolment form which shows the date of birth of the workman as 7th October, 1934. The information received from Army Medical record also shows the date of birth of the workman as 7th October, 1934. Thus it was for the workman to explain as to how his date of birth was recorded as 10th October, 1934 in the earlier record when as per his claim he had given his date of birth as 6th April, 1938.

It is also worth note that as per the discharge book the workman claimed to have studied up to 9th Class in the Civil. But when it came to his statement before this Court and even before the inquiry officer, he denied to have studied in any school and claimed that whatever qualification he gained, he had gained in the army. He thus made a false statement in this regard. It is on record, when the Management asked him to produce the proof of his date of birth from educational institution or from any other source, he replied to them that he has not been able to lay hand on any proof in support of his date of birth. I think while stating so he again made a false statement. As to how then the army authorities came to know that the workman had studied upto 9th standard in the Civil. The workman, therefore, did not state correct facts during the inquiry and even in the Court. Reference can be made to his application dated 23rd January, 1986 where he stated that he was unable to lay his hands on the school/birth certificate. The question arises that if he had not studied in any school then why did he make efforts to get the record from school and did not state that since he had not studied in any school, therefore, there was no question of his locating date of his birth from the school record.

After going through the record of the file which include the inquiry proceedings and the statement of the workman and the witness of the Management, I am of the opinion that the Management had held a fair and proper inquiry in the matter. No doubt it could not be pin pointed as to who had tampered with the discharge book of the workman, while it was in the custody of the Management but the fact remains that it was recorded after the discharge book was submitted by the Management. The documents provided by the army clearly shows that the date of birth given by the workman at the time of his enrolment was 7th October, 1934. It was the workman who got the discharge book and if his date of birth was not recorded by

the army or it was recorded as 7th October, 1934 then why he did not request them to record or correct the same. The conduct of the workman can be well judged when he made a false statement before the inquiry officer that he had not studied in any school whereas discharge book reads that the workman had studied upto 9th standard in the Civil before joining the army service. In the Court he admitted that he had submitted the certificates of his date of birth as well as school certificate, therefore, I find that the workman did not provide true particulars to the Management at the time of his recruitment and therefore he misled them, may be to gain more time in the employment with the Management or to make him eligible for pension scheme. Whatever may be the reason, the fact remains that he did state correct facts before the inquiry officer and before the Management, with regard to his date of birth. Otherwise when he had studied upto 9th standard in some school why he did disclose from which institution he had received the education and why he could not get the record from the said school about his date of birth. The workman cannot get benefit of the fact that since the tampering in the date of his birth took place during the period his discharge certificate remained in possession of employer as despite that he was expected to state true facts to the Management, whether he did not do so. The Management was, therefore, justified to discharge him from service as no body could retain an employee who was not true to his master. The punishment award was justified. He is, therefore, entitled to no relief. The award is passed in these terms. Let a copy of this award be sent to the appropriate government for necessary action and the file be consigned to records after due completion.

KULDIP SINGH, Presiding Officer
नई दिल्ली, 7 नवम्बर, 2006

का.आ. 4508.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार नार्दन रेलवे के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण सं. II, चंडीगढ़ के पंचाट (संदर्भ संख्या 486/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 7-11-2006 को प्राप्त हुआ था।

[सं. एल-41011/41/2004--आई.आर. (बी-1)]
अजय कुमार, डेस्क अधिकारी

New Delhi, the 7th November, 2006

S.O. 4508.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (486/2005) of the Central Government Industrial Tribunal/Labour Court No. II, Chandigarh now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Northern Railway and their workman, which was received by the Central Government on 7-11-2006.

[No. L-41011/41/2004-IR(B-1)]
AJAY KUMAR, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH

Shri Kuldip Singh, Presiding Officer

Case No. I. D. No. 486/2005,

Registered on 25-8-2005

Date of Decision 19-9-2006

The Divisional Secretary,
Uttar Railway Karmchari Union,
Himmatpura Colony,
Railway Colony, Ambala Cantt.
(Haryana)

....Petitioner

Versus

The Divisional Railway Manager,
Northern Railway, DRM Complex,
Ambala Cantt.,
(Haryana)

....Respondent

APPEARANCE

For the Workman : Mr. Jasminder Pal Singh
Advocate

For the Management : Mr. Kehar Singh Hissowal
Advocate.

AWARD

The workmen continues to be absent. On 3rd July, 2001, the workmen appeared through one Jasminder Pal Singh, Advocate, but thereafter they have not appeared. They have also not filed their Claim Petition despite repeated directions. On record I find only the authority letter of the representatives of the parties and neither Claim Petition nor the reply thereto has been filed. The case has remaind without any proceedings right from September 2005. This itself shows the interest of the parties in prosecuting their claim. In this the loser are the workers who have disappeared after having appeared once through Jasminder Singh, Advocate. They have also not filed their Claim Petition and have not given any reasons how the action of the Management was unjust and illegal by not screening workman, Krishan Lal, Khalasi although he had put in 120 days of continuous service whereas his juniors were screened. I do not find any evidence to show that the workman had continued service of 120 days at his credit and he had the same even on the day his juniors were screened whereas he was not. The workman is, therefore, not entitled to any relief for want of evidence. The award is passed against him. Let a copy of this award be sent to the appropriate government, for necessary action and the file he consigned to records after due completion.

KULDIP SINGH, Presiding Officer

नई दिल्ली, 7 नवम्बर, 2006

का.आ. 4509.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार स्टेट बैंक ऑफ

इंडिया के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण सं. II, चंडीगढ़ के पंचाट (संदर्भ संख्या 717/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 7-11-2006 को प्राप्त हुआ था।

[सं. एल-12012/283/95-आई. आर. (बी-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 7th November, 2006

S.O. 4509.—In Pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (717/2005) of the Central Government Industrial Tribunal/Labour Court No. II, Chandigarh now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of State Bank of India and their workman, which was received by the Central Government on 7-11-2006.

[No. L-12012/283/95-IR(B-I)]

AJAY KUMAR, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH

Shri Kuldip Singh, Presiding Officer

Case No. I. D. No. 717/2005,

Registered on 25-8-2005

Date of Decision 28-9-2006

The General Secretary,
State Bank of India Staff Congress,
1304, Sector-23-B,
Chandigarh

....Petitioner

Versus

Deputy General Manager,
State Bank of India,
Zonal Office Punjab,
Sector-17,
Chandigarh

....Respondent

APPEARANCE:

For the Workman : Mr. Raj Kaushik AR

For the Management : Sh. A. K. Khunger Advocate

AWARD

The workman continues to be absent. Management appears through Counsel.

Since the workman remaind continuously absent for two dates and even earlier he did not appear in person, therefore, it was directed that notice to the workman be sent under R/C with a direction to appear today. He is not present and the notice sent to him has been received back with a report that the person of that name does not reside

at the address given. Thus the workman was not found on the address he mentioned in his statement of claim. There is no other address of the workman available nor he has bothered to come to find out about his case. Mr. Raj Kaushik, Advocate who at certain stage appeared for the workman stated that despite his efforts he has not been able to contact the workman. From this the Court is satisfied that the workman has lost interest in the case that is why he has not enquired about it all this period.

The Government of India *vide* their reference No. L-12012/283/95 dated 25th April, 1997 desired to know whether the action of the Management in not allowing the benefit of one increment, on account of abolition area classification in 1970 and another increment in lieu of DA to Shri Mam Chand Goyal, Head Clerk was just and fair. If not, to relief the workman was entitled to and from which date.

On record I do not find any evidence in support of the claim of the workman. The parties filed their pleadings. The workman filed his affidavit and to counter that the Management filed the affidavit of their Deputy Manager. The Management has denied the claim of the workman and the parties have not produced any evidence for and against their respective cases. I do not find any evidence to show that the action of the management in denying the benefit of one increment on account of evolution of area classification in 1970 and one increment in view of DA in 1979 to the workman was unjust and illegal. As such the claim of the workman is rejected. The reference is answered in the terms that there is no evidence to show that the action of the Management was unfair and unjust. The award is passed. Let a copy of this award be sent to the appropriate government for necessary action and the file be consigned to records after due completion.

KULDIP SINGH, Presiding Officer

नई दिल्ली, 7 नवम्बर, 2006

का.आ. 4510.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसार में, केन्द्रीय सरकार स्टेट बैंक ऑफ इंडिया के प्रबंधतात्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुरूप में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण सं. II, चंडीगढ़ के पेंचाट (संदर्भ संख्या 1264/2 के 6) को प्रकाशित करती है, जो केन्द्रीय सरकार को 7-11-2006 को प्राप्त हुआ था।

[सं. एल-12012/188/2005-आई आर (बी-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 7th November, 2006

S.O. 4510.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 1264/2k6) of the Central Government Industrial Tribunal/Labour Court No. II, Chandigarh now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of State Bank of India and their workman,

which was received by the Central Government on 7-11-2006.

[No. L-12012/188/2005-IR(B-I)]

AJAY KUMAR, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH

Presiding Officer : Shri KULDIP SINGH

Case No. I. D. No. 1264/2k6,

Registered on 25-04-2006

Date of Decision 16-10-06

B. S. Rathi C/o Shri O. P. Indal,

President, SBI SC/ST

Employees Welfare Association

No. 3086, Sector-44-D,

Chandigarh

....Petitioner

Versus

The Deputy General Manager,

State Bank of India,

Zonal Office Sector-5,

Panchkula

....Respondent

Appearance

For the Workman : Memo

For the Management : Mr. V. K. Sharma, Law Officer

AWARD

The workman is not present. Despite a number of notices he did not appear and finally a notice under R/C was sent to him on the address available on the file. The R/C carrying the notice has been received back with a report of the Postal Authorities "Unclaimed". This shows that the workman had received the notice but despite that he is not present. It further shows that he is left with no interest in the matter.

This Tribunal received the reference from Government of India through their Order No. L-12012/188/2005-IR(B-I) dated 12th April, 2006 by which they asked this Tribunal to state whether the action of the Management, State Bank of India, Panchkula, in awarding the workman B.S Rathi, the punishment of bringing down to lower stage in the scale of pay by two stages is legal and justified and if not to what relief the concerned workman is entitled to and from which date.

As stated above the workman has not appeared whereas the Management has appeared through their representative all along. On record I do not find any evidence, not even the Claim Statement of the workman, to show that the Management had lower down the workman by two stages in the scale of pay that their action was illegal and unjustified. There is nothing to show that Management had taken such an action and the said action was bad in law. The workman is, therefore, not entitled to any relief. The reference is answered in these terms. Let a

copy of this award be sent to the appropriate Government for necessary action and the file be consigned to records after due completion.

KULDIP SINGH, Presiding Officer

नई दिल्ली, 7 नवम्बर, 2006

का.आ. 4511.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार स्टेट बैंक ऑफ इंडिया के प्रबंधतंत्र के संबद्ध नियोजकमॉन और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण सं. II, चंडीगढ़ के पंचाट (संदर्भ संख्या 1041/2 के 5) को प्रकाशित करती है, जो केन्द्रीय सरकार को 7-11-2006 को प्राप्त हुआ था।

[सं. एल-12012/228/89--आई.आर.(बी-1)]

अजय कुमार, डेस्क.अधिकारी

New Delhi, the 7th November, 2006

S.O. 4511.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 1041/2k5) of the Central Government Industrial Tribunal/Labour Court No. II, Chandigarh now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of State Bank of India and their workman, which was received by the Central Government on 7-11-2006.

[No. L-12012/228/89-IR(B-1)]

AJAY KUMAR, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH

Presiding Officer : SHRI KULDIP SINGH

Case No. I. D. No. 1041/2k5,

Registered on 23-03-1990

Date of Decision 28-02-2006

Shri P. K. Kohli C/o Shri Tek Chand Sharma,
25, Sant Nagar, Civil Lines,
Ludhiana (Punjab)

....Petitioner

Versus

Assistant General Manager,
State Bank of India,
Regional Office Sector-17,
Chandigarh

....Respondent

Appearance

For the Workman : Shri T. C. Sharma, Advocate
For the Management : Shri Ashok Kumar Khunger,
Advocate

AWARD

The Government of India *vide* their notification No. L-12012/228/89-IR(B-3) dated 9-1-1990 referred the following matter for the adjudication of this tribunal;

“Whether the action of the State Bank of India, Regional Office, Punjab, Sector-17, Chandigarh, in dismissing Shri P. K. Kohli, Clerk/Typist at their Civil Lines Branch, Ludhiana w.e.f. 26-9-1987, is legal and justified? If not, to what relief the workman concerned is entitled to and from which date?”

The notice of the reference was given to the parties. The workman appeared through his Counsel, Shri Tek Chand Sharma, whereas the Management appeared through Shri Ashok Kumar Khunger, Advocate. The workman filed the statement of claim to which the Management filed the reply. The workman filed rejoinder as well as his own affidavit in support his case. The Management filed the affidavit of their witness, Shri Rajinder Pal, Assistant General Manager at the time and also placed on record 19 documents comprising of 164 pages which included the departmental inquiry proceedings, the finding of the Inquiry Officer, the petitioners appeal and decision of the appellant authority etc.

During the course of the proceedings, in this Tribunal, the workman appeared as a witness and proved his affidavit. The Management absented from Court appearance and they were put ex parte on 15-11-1998. They however, joined further proceedings later on. The fact remains that the Management did not produce their witnesses to prove the documents including the affidavit of their witnesses support of their claim. After the case was transferred to this Court, the parties did not appear even when a registered notice was issued to the workman. It is in these circumstances the case is being considered in the absence of the parties, on merit.

It is the case of the workman, as made out in the statement of claim, that the workman was served with a charge sheet on 18-11-1986, under No.CRM/PUN/DAC/861712, by the Disciplinary Authority, Chief General Manager Punjab; that he could not file the reply to the charge sheet and twice requested to the disciplinary authority for extension of time, but his request was declined and an Inquiry Officer, Sh. Manoj Kumar, was appointed. The workman requested for supply of photo copies of relevant documents, mentioned in the charge sheet, but his prayer was declined and he was not supplied with the copies of the order by which the Inquiry Officer was appointed. The Inquiry was not conducted by Sh. Manoj Kumar and instead one Rajinder Pal was entrusted with the inquiry; that the workman was placed under suspension by an incompetent authority and the charge sheet served upon him was illegal and arbitrary. The inquiry proceedings were not conducted according to the procedure. The Inquiry Officer allowed the presenting officer of the Bank to make the statement as a witness, the documents produced were not proved, yet were exhibited. The workman was directed to file list of defence witnesses and the documents even before the prosecution led the evidence. The Inquiry Officer

questioned the workman even during the period the evidence of the prosecution was going on. The finding of Inquiry Officer are not based on the evidence on record, yet the Inquiry Officer imposed the panel on the workman. The Inquiry Officer also failed in his duty to make a speaking order. He further made the lapse in penalizing the workman even when his conduct did not constitute a misconduct and left those who were responsible for the custody of the cheque book.

The workman has further claimed that the order of punishment awarded to the workman is illegal, arbitrary, malafide and against the rules; that the appellate authority also acted in violations of the provisions of the law and confined the order of the disciplinary authority ignoring the facts and evidence of the case. He, in the end, has prayed for setting aside the order of his dismissal from service and for reinstatement alongwith all consequential benefits as if he continues to be in service but for the order in question.

The Management filed reply to the claim petition and stated that the application, bad since it is not properly verified. On merit, it is stated by them, that the claim made by the workman in para 1 of his claim statement is wrong and untrue. The order of dismissal was passed in accordance with the rules. It is their case that the charge sheet dated 8-11-1996 was served upon the workman, but he did not file reply thereto even when he was given ten days extension to do it. They have shown lack of knowledge about the hospitalization of the wife of the workman and the birth of a child to him. They further claim that the Management had received a request from the representative of the workman for extension of time to file the reply and even after the expiry of the requested time, the workman did not file the reply to the charge sheet. It was in these circumstances that the Disciplinary Authority decided to hold the inquiry. Shri Manoj Kumar was appointed Inquiry Officer who unfortunately died in an accident before the start of the inquiry, therefore, another Inquiry Officer, Shri Rajinder Pal was appointed. The workman was provided full opportunity to pursue the record. He was provided with the copies of all the documents relied upon in the chargesheet. Denying the claim of any prejudice, made by the workman, it is stated by them that the workman never raised the claim of non-supply of copy of the order appointing Shri Rajinder Pal. The purpose of holding the inquiry was not to harm the workman, but to find out the truth in the charges against him. The appointment of the Rajinder Pal as Inquiry Officer was made in the circumstances that the earlier Inquiry Officer died in an accident. Claiming that the workman was suspended by a competent disciplinary authority, who had charge sheeted him and the order of suspension made by him was proper and in terms of Desai Award as the Disciplinary Authority was higher in rank than the appointing authority. The proceedings were held in accordance with the law and rules. The rules of natural justice were followed and the workman

never raised a cry about the want of prescribed procedure. Claiming that the inquiry officers are not courts so as to follow the procedure in letter and spirit. They are competent to inquire from any source or channel, in accordance with the rules, procedure governing the procedure in the Court.

It is further the case of the Management that inquiry officer was within his powers to call for the list of defence witnesses and documents; that in view of the evidence available on record article of charges 1, 2, 3 were proved. In view of the documents and statement of the witnesses, the finding of the Inquiry Officer is legal and just. It was upon the report of the Inquiry Officer that the order of dismissal was passed and conveyed to the workman. The punishment awarded to the workman was well justified on the basis of the evidence available on record. There was also no violation of natural of justice. It was in these circumstances that the appellant authority confirmed the order of the disciplinary authority. They have further submitted that the order of the disciplinary authority and the appellant authority is legal and just and was not passed in violation of the principles of natural justice. They have also claimed that the workman was accorded full opportunity to defend himself and also to cross-examine the witnesses of the Management. The Management has further taken the additional plea that the workman was provided with full opportunity to defend himself. He was also allowed to inspect the record and was provided with the copies thereof; that a fair and just domestic inquiry was held against the workman and in case this Court comes to the conclusion that there was shortcoming in the domestic inquiry they reserve their right to lead evidence in support of the charges and to prove that the workman is guilty of the misconduct proved against him.

The workman filed rejoinder and re-iterated the facts stated in the petition. I feel no useful purpose can be served to recount the grounds taken by the workman as the same are already noted in the statement of the claim.

Before recounting what the workman stated in the affidavit, it would be useful to state in brief what the workman stated in his statement before the Court. I think the statement of the workman is itself sufficient to answer the reference made in the case. The workman in his statement admitted that he had not filed reply to the charge-sheet Exhibit EXM-2 till 16-12-1986 when Sh. Manoj Kumar was appointed as Inquiry Officer. He further admitted that he had been given extension of time to file the reply to the chargesheet. He also admitted that he had received the information about the appointment of Mr. Rajinder Pal as the Inquiry Officer, and that in his statement of claim he had wrongly stated that he had not received the order or appointment of Inquiry Office. In his affidavit and statement of claim he claimed that he has not filed reply to the charge sheet as all the Bank authorities had advised him to directly participate in the inquiry and not to file the reply to the charge sheet. He further admitted that he has no evidence in his possession to prove the fact that he had not filed the

reply to the charge sheet on the advice of the Bank authorities.

His statement further makes interesting reading as he admitted that he had the knowledge about the demise of Sh. Manoj Kumar and continued appearing before Shri Rajinder Pal, the Inquiry Officer. He further admitted that his representative had made a request for extension of time to reply the chargesheet. He admitted that he had signed on the inquiry proceeding on each and every day, and that he had admitted on 28-2-1987 that he has received all the documents, produced in the inquiry, and that he had mentioned in the claim statement that the Inquiry Officer had not provided the copies of the documents whereas he had received the documents, but he had not received some specific documents the detail of which he cannot give. On being shown the record he admitted in para 29, 38, 45 & 68 that he had received the copies of the documents. He further admitted that he had been asked to produce evidence in defence but he did not produce any and only produced some documents. He denied that Shri Pawan Kumar had appeared as a defence witness. In the same breath he admitted in para No. 64, 67, 69 and 77 that his defence witness was examined; and that he was given show cause notice EXM-12. It is also admitted by him that he was given personal hearing but incorrectly stated in para No. 14 of the affidavit that he was not given the time to reply to the chargesheet. He admitted that he had made no grievance to the Bank Authorities that he has not been given adequate opportunity to defend himself, during the inquiry proceedings and the inquiry proceedings were not fair. He claimed that he had written a letter about the unfairness of the inquiry proceeding, but stated that he does not have copy thereof.

After going through the statement of the workman, by which he also proved his affidavit Exhibit W-1 and documents Exhibit M-1 to M-19, one comes to the conclusions that he demolished his own case, as made out by him, in the statement of claim. His grouse was that the inquiry conducted against him was not fair. He was not provided with that opportunity to defend himself. He was not provided with the copies of the documents relied upon in the inquiry. He also raised procedural violation as the grounds of his attack. When it came to his statement, he admitted that he was not only served with the chargesheet, but was also given extension of time to file reply thereto. However, he did not file any reply. He admitted that he had received the copies of the documents relied upon by the Management. He was also asked to provide the particulars of defence witnesses. He has failed to show as to how the chargesheet served upon him was issued by an incompetent authority and if so who was the competent authority to do it.

The Management has placed on record complete paper book of the Inquiry proceedings which include the petitions of the workman, made from time to time, the order of the appellant authority and the detail of the proceedings

held. I find that the workman acknowledged the serving of suspension order, the order of the Chief General Manager, the grounds of charges against him dated 8-11-1986, a notice by which the Inquiry Officer was appointed dated 16-12-1986. The departmental inquiry proceedings on 28-2-1987, 18-3-1987, 6-4-1987, 27-4-1987, 9-5-1987, 26-5-1987, 3-6-1987, 8-6-1987, 17-6-1987 and on all other dates, fixed for purpose were attended by the workman and on the day like 18-6-1987 when the workman did not attend the proceedings, the same were adjourned by the Inquiry Officer. The perusal of the proceedings further show that the workman actively took part in the proceedings. He put searching questions to the witnesses and himself also made a long statement. He not only cross-examined the witness of the Management, but also examined his own witnesses like Mukesh Dhawan. Thus it is very clear that the workman fully participated in the domestic inquiry proceedings and actively defended himself. I fail to understand but more particular he expected from the Management to give him, so that he could adequately defend himself. I do not find any evidence on record to show that the Management failed in its duty to provide sufficient opportunity to the workman to defend himself. There is also no evidence to show that the Management violated the provisions of natural justice and fair play in conducting the inquiry.

Now coming to the punishment awarded to the workman I find that the punishment awarded is not disproportionate to misconduct alleged against him and proved by the Management. In the financial institutions, it is only the trust, the trust of the depositor, that is, that is the paramount consideration. How the people will believe that their hard earned money is safe, if they find that the institution where they want to deposit the money or they have deposited the money has employees such like the workman who would swindle away their money by committing forgeries and frauds. The evidence produced in the case is primarily of the employees of the Bank who were the colleagues of the workman. There has come nothing on record to show that they spoke against the workman for extraneous reasons. Therefore, I find that the punishment awarded is just and fair and the workman deserved it.

It is a fact that this Tribunal is not a Court of appeal against the verdict of the disciplinary authority or the appellant authority under the standing orders governing the Management. As a Tribunal it has only to see whether the dismissal of the workman was legal and justified. The answer to that is that it was legal and well justified. The workman had committed the misconduct for which he did not deserve any thing less. Therefore, he is entitled to no relief. The reference is answered in these terms. Let a copy of this award be sent to the appropriate government for necessary action and file be consigned to records after due completion.

KULDIP SINGH, Presiding Officer

नई दिल्ली, 7 नवम्बर, 2006

का.आ. 4512.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार स्टेट बैंक ऑफ पटियाला के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण सं. II, चंडीगढ़ के पंचाट (संदर्भ संख्या 1012/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 7-11-2006 को प्राप्त हुआ था।

[सं. एल-12012/174/98-आई.आर.(बी-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 7th November, 2006

S.O. 4512.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (1012/2005) of the Central Government Industrial Tribunal/Labour Court, No. II, Chandigarh now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of State Bank of Patiala and their workman which was received by the Central Government on 7-11-2006.

[No. L-12012/174/98-IR (B. I)]

AJAY KUMAR, Desk Officer

ANNEXURE

CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM- LABOUR COURT-II CHANDIGARH

PRESIDING OFFICER : SHRI KULDIP SINGH

Case No. I.D.No. 1012/2K5.

Registered on 17-09-2005

Date of Decision 21-09-2006

Nachattar Singh C/o Shri Tek Chand Sharma, 25,
Sant Nagar, Civil Lines, Ludhiana-141001

Petitioner

Versus

THE GENERAL MANAGER STATE BANK OF
Patiala, SBOP, HEAD OFFICE, THE MALL,
Patiala.

RESPONDENT

APPEARANCE

For the Workman :

SHRI T.C. SHARMA

For the Management :

Mr. N.K. ZAKHMI

Advocate.

AWARD

The workman continues to be absent. He has not appeared on any date fixed in this Tribunal. On 30th January, 2006 he appeared through Counsel but again absented on the next date. It was in these circumstances

that the notice under R/C was issued to the workman asking him to appear and produce his evidence and the notice was sent under a R/C Postal Receipt No. 372 dated 18th July, 2006. Even after the expiry of two months neither he is present nor the R/C carrying the notice has been received back unserved. This shows that workman has received the notice, but he has chosen not to appear in the case or produce evidence in support of his claim.

The Govt. of India referred the following dispute for the adjudication of this Tribunal vide their order No.L-12012/174/98/IR (B-1) dated 24th March, 1999 which reads as under :

"whether the action of the Management of the State Bank of Patiala, Head Office, Patiala retiring the workman Shri Nachhatar Singh, an ex-armed guard w.e.f. 31-12-1997 instead of 30-04-1998 is legal and justified? If not to what relief the workman is entitled to and from what date?"

The workman filed his Claim Petition on 22nd November, 1999, against which the Management filed the Written Statement. They also placed on record a photo copy of circular and the affidavit of their witness. The workman filed his affidavit. The Management denied the claim of the workman in their Written Statement duly supported by the affidavit of their witness. On record there is claim of the workman which is denied by the Management. On record I do not find any evidence for and against the respective claims of the parties except the affidavits of the workman and that of the witness of the Management which have not been proved by them. There is therefore, no evidence to show that the action of the Management in retiring the workman w.e.f. 31st Dec., 1997 instead of 30th April, 1998 was illegal and unjustified. The workman is, therefore, entitled to no relief. The award is passed against him. Let a copy of this award be sent to the appropriate government for necessary action and the file be consigned to records after due completion.

KULDIP SINGH, Presiding Officer

नई दिल्ली, 7 नवम्बर, 2006

का.आ. 4513.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार स्टेट बैंक ऑफ इंडिया के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण सं. II, चंडीगढ़ के पंचाट (संदर्भ संख्या 673/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 7-11-2006 को प्राप्त हुआ था।

[सं. एल-12012/16/94-आई.आर.(बी-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 7th November, 2006

S.O. 4513.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (673/2K5) of the

Central Government Industrial Tribunal/Labour Court, No. II Chandigarh now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of State Bank of India and their workman which was received by the Central Government on 7-11-2006.

[No. L-12012/16/94-IR (B. I)]

AJAY KUMAR, Desk Officer

ANNEXURE

CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II CHANDIGARH

PRESIDING OFFICER : SHRI KULDIP SINGH

Case No. I.D.No. 673/2KS.

Registered on 25-08-2005

Date of Decision 14-10-2006

RISHI RAM S/O SHRI SUKHBIR, HOUSE
NO. 3517, JANTA COLONY, SECTOR-25,
CHANDIGARH

PETITIONER

Versus

OFFICE MANAGER, SBI, OFFICE ADMN.
DEPARTMENT, SECTOR-17, CHANDIGARH

RESPONDENT

APPEARANCE

For the Workman : Mr Raj Kaushik, Advocate

For the Management : Mr. Ashok Kumar Khungar
Advocate.

AWARD

Vide their Order No.L-120 12/16/94 IR(B-I) dated 15th June, 1995 the Central Govt. referred the following dispute for the consideration of this Tribunal :

"whether the action of the Management of State Bank of India, Local Head Office, Chandigarh in terminating the services of Shri Rishi Ram S/o Shri Sukhbir, Sweeper w.e.f. 25th Feb., 1990 is legal and valid? If not, then to which relief, the workman is entitled to and from which date?"

The parties on getting notice of the reference, appeared through their Counsel. The workman filed his Claim Petition. He placed on record photo copies of Memorandums now marked as A 1 to A8. He also submitted his affidavit, in support of the claim. Management filed the reply to the Claim Petition alongwith affidavit of one Balbir Singh, their Deputy Manager. They also placed on record the certified photo copies of the memorandums numbering 9 besides attested copy of note dated 7th March, 1994, photo copies of register of employees, now marked as A9 to A 16.

The record of the file speaks that during the course of trial of this reference, the workman expired and his LRs filed an application dated 30th March, 1999, for substituting them as the LRs of the deceased workman. After considering the reply of the Management the application was allowed. As a result thereof the widow, two sons and a daughter of the deceased workman were substituted as LRs of the deceased workman. The LRs of the deceased workman i.e. of his son Amit and widow Prakashi filed the affidavits. One of the LR Shri Amit also appeared as a witness for the LRs of the deceased workman, whereas the Management examined Balbir Singh, their Deputy Manager, as the witness of the Management.

The claim of the workman is that he was appointed as Sweeper in the Head Office of the Management at Chandigarh in the year 1986 and he worked for them continuously upto 1987. He used to work on all working days as well as on holidays and Sundays, but he was paid wages only at the rate of Rs.12 per day. He had served the Management for 240 days by then when his services were terminated, without notice or notice pay. Afterwards he was again appointed on half scale w.e.f. 26th June, 1989 and his appointment was extended from time to time upto January, 1990. That the Management used to issue the orders of extension of his engagement, after the completion of period he served for them and would get his signatures by force, on the said letters of extensions, without allowing him even to put the date on which the copy of the order, was given to him. It was due to this fact that the last extension order could not be issued since the workman had refused to sign in duplicate copy of the order; that the workman performed duty for more than 240 days, in a year preceding the date of termination of his services, but the Management did not issue him notice nor paid him the retrenchment compensation before terminating his services. They recruited fresh hands, both in the local head office and in the branches. The action of the Management, in making less payment to the workman, and also terminating his services without following the provisions of Industrial Dispute Act, 1947, hereinafter to be referred as Act; was bad in law and was against the principles of natural justice. He has prayed for declaring his disengagement as violation of provisions of the Act.

The Management has opposed the claim of the workman stating that the same is barred by limitation as well as is not maintainable since the workman was appointed for a specific period and his services got terminated by flux of time. The petition is also defective and is required to be returned or amended by the workman. On merit it is their submission that the contents of Claim Petition are wrong and hence denied. The workman was engaged as Casual Labour for two three hours a day and was paid agreed rate in view of the working hours and load of the work. Disputing the claim of the workman that he was appointed in the year 1986-87, it is stated by them that the workman was

appointed on 26th June, 1989, as a temporary sweeper, on half scale, wages for five days and the period of engagement was extended from time to time, for a fixed period and in that regard letters of appointment were issued. Therefore, the appointment of the workman always remained for specified period. The claim of the workman is, therefore, barred by Section -2(oo)(bb) of the Act. Their further claim is that, after the appointment of permanent sweepers, the services of the workman were not extended and it is his false claim that he had served the management for 240 days in a year preceding the date of his termination rather he had served only for 237 days i.e from 26th June, 1989 to 24th February, 1990 and even during that period he remained absent from duty unauthorizedly for 8 days. His engagement was two to three hours a day. Denying that the Management had violated the provisions of Section-25-F, Sub-Clause b of the Act, it is stated by the management that they have not committed any unfair labour practice and in the circumstances, no notice was required to be issued to the workman, as the workman was engaged for a specified period.

It is admitted case on behalf of the workman that he had served the management from 1986 to 1987, a fact which has been denied by the Management. Even otherwise the question to be examined is whether the management had violated the provisions of the "Act" while disengaging the workman from service. In the absence of cogent evidence, the consideration of service period of the workman during the period of 1986-87, is irrelevant for the reason that the point to be seen is whether the workman had performed the services, for the Management, for 240 days in a year preceding the date of termination of his services. The appropriate Govt. has referred the matter to this Tribunal to find out whether the termination of services of the workman on 25th February, 1990 was legal and valid or not. Thus the relevant date for our purposes is 25th Feb., 1990 and twelve months preceding that day, so the period of service as claimed by the workman during 1986-87 is not relevant although the witness of the Management in his statement before this Tribunal admitted that the workman had also served the Management during 1986-87.

There is no dispute between the parties that the workman had served the Management from 26th June, 1989 to 24th February, 1990. The Management has however stated that during the relevant period the workman remained absent from duty for 8 days and he had actually served the Management only for 229 days and 237 days was the total period of engagement of the workman and in no case he served the Management for 240 days.

In support of their claim the Management has placed on record the photo copies of the memorandums, the contents of which are admitted by the Legal representatives of the workman, except that of the memo dated 1st Feb., 1990. The representative of the workman also denied the contents of note 1432 dated 7th March, 1994. Mr. Amit,

son of the deceased workman, who appeared as a witness, identified the signatures of his father on Mark A-9 to A-16. The Management has relied upon note 1432 dated 7th March, 1994. According to this note the workman had served for five days in the month of June, 1989, 31 days each in the month of July and August, 1989. In September the workman is shown to be absent on 4th September being on strike and on 18th, 28th and 29th. He was given the credit of having worked for 27 days thus, a discredit of three days without showing as to which of the four days were disallowed. Presumably the three days on which the workman had gone on strike were not credited in his account, without showing as to why. There has come no evidence to show whether the act of the workman, having went on strike was illegal or legal and what action the Management had taken against the workman for his having remained on strike on those days in September. Similarly in October the workman is shown to have worked only for 28 days he is shown to be absent from duty on 6th, 12th, 20th and 26th October. There is nothing on record to show as to how the absence of the workman was treated during October, 1989. Interestingly, vide their memorandum dated 3rd October, 1989 the Management admitted the workman having engaged for 29 days, but in the note referred to above, he was shown to have worked only for 28 days. In November, as per note 1432 dated 7th March, 1994 the workman is shown to have served only for 25 days, whereas as per memorandum dated 1st November his service was extended for 30 days. Similarly in February the workman is shown to have served for 21 days only, although he had served upto 24th Feb., 1990. He is shown to have been on casual leave from 12th Feb., to 14th Feb., 1990. It shows that three days on which the workman remained on leave, he was not shown to be on duty and without as to why. The Management has failed to show that the workman was not entitled to any paid leave day and thus he was not entitled for the wages for three days of leave. However, as per note 1432 dated 7th March, 1994, the workman was paid his wages approximately at the rate of 19 Rupees per day in January and if that formula is applied he was paid for full 24 days in February, 1990 and not for 21 days. The claim of the Management is that the workman had served only for 21 days in February and he was not paid for 24 days in that month cannot be accepted. If we examine the evidence of the Management, it comes out that in making the calculations about the total No. of days the workman is shown to have served the Management, it comes out that the workman had definitely served the Management for 240 days within 12 months preceding the date of termination of his services. The statement of their witness Balbir Singh, is not supported by the evidence produced by the Management that the workman had not served for 240 days continuously, therefore, he was not regularized in service.

The next claim of the Management is that since the workman had been engaged only for specified period,

therefore, no notice was required to be issued to him as his services ended with the flux of time. This submission of the Management cannot be in the light of the claim made by the workman. The workman stated that the Management used to issue the orders of extension of his services after the end of the month for which the same was issued and the Management would force him to sign thereon. The photo copies of the memos marked A1 to A8 are on record. Interestingly, none of these memos bear the dispatch No. of the office of the Management and in some of these extension the date of issuance of the order is also missing. As per the memorandum by which the workman was engaged for 5 days from 26th June, 1989, the workman is shown to have been engaged on a salary of Rs. 215 per month. His services were extended from time to time, in terms and conditions of the said memorandum, but as per their own admission, made in the shape of note No. OAD Staff 1432 dated 7th March, 1994, the workman was paid wages more than the one referred to in the term and conditions of the engagement. All this shows that there was no fairness on the part of the Management in showing the clear terms and conditions of engagement of the workman. They also appeared to be not fair in showing the number of working days the workman served the Management. What appears from the evidence is that the workman continuously worked for the management and the memos were their creation after the event so as to save themselves from the liability of continuous service of the workman to the Management. Thus it cannot be accepted that the engagement of the workman was for a specified period and his services ended with the flux of time, therefore, the Management was not under an obligation to issue notice to him and to pay him the retrenchment compensation in terms of Section 25-F of the Act.

After going through the evidence available on record I am of the opinion that the workman had served the Management for 240 days during 12 months preceding the date of his termination on 24th February, 1999. The Management has admitted that they had not issued notice to the workman before terminating his services; and that they had paid retrenchment compensation to him. Balbir Singh, their witness showed want of knowledge that any notice was issued to the workman or that the workman was paid the retrenchment compensation. This proves that the Management had not complied with the provisions of Section 25-F of the Act, before terminating his services. The claim of the Management that the workman was a part timer does not take him away from the definition of the workman. It is by now settled that a workman is a workman, may be the is a part timer/casual, daily wager or regular. The workman was, therefore, entitled to the benefits under Section 25-F of the Act.

In view of the discussion made above it is held that the Management committed lapse in not following the provisions of Section 25-F of the Act on 24th Feb., 1999

when they terminated the services of the workman without following the provisions of Section 25-F of the Act. Therefore the termination of the workman was bad in law. He is treated to be in service till 22nd Feb., 1999, the day, he died, as if there was no disengagement of the workman on 24th Feb., 1999.

There has come no evidence on record to show that the Management had recruited fresh hands ignoring the claim of the workman. Thus this claim of the workman is held not proved and is rejected.

Keeping in view the discussion made above it is held that the termination of services of the workman on 24th Feb., 1990 was bad in law and the same is quashed. The workman is treated to be in service till the date he died. There has come no evidence to show that the workman had engaged himself in gainful employment after his disengagement by the management. But it also cannot be said that he remained without work although this period. He must have earned so as to sustain himself and his family, therefore, I hold that the workman is entitled to back wages only to the extent of 50%. The Management is directed to pay the back wages to the LRs of the deceased workman within three months from the date of enforcement of this award. The reference is answered in these terms. Let a copy of this award be sent to the appropriate Govt. for necessary action and the file be consigned to records after due completion.

KULDIP SINGH, Presiding Officer

नई दिल्ली, 7 नवम्बर, 2006

का.आ. 4514.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय स्टेट बैंक ऑफ इंडिया के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण सं. II, चंडीगढ़ के पंचाट (संदर्भ संख्या 1069/2 के 5) को प्रकाशित करती है, जो केन्द्रीय सरकार को 7-11-2006 को प्राप्त हुआ था।

[सं. एल-12011/33/97-आई.आर.(बी-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 7th November, 2006

S.O. 4514.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (1069/2K5) of the Central Government Industrial Tribunal/Labour Court, No. II, Chandigarh now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of State Bank of India and their workman which was received by the Central Government on 7-11-2006.

[No. L-12011/33/97-IR (B-I)]

AJAY KUMAR, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT-II
CHANDIGARH

Presiding Officer : Shri Kuldip Singh

Case No. I.D.No. 1069/2K5

Registered on 20-9-2005

Date of Decision 19-9-2006

Workmen through General Secretary, SBI Staff
Congress, Chandigarh

... Petitioner

Versus

AGM, State Bank of India, Chandigarh

... Respondent

APPEARANCE :

For the Workman : Mr. J.G. Verma,
Advocate

For the Management : MR. V. K. Sharma AR

AWARD

The workman is not present despite notice to him under R/C vide Postal Receipt No. 400 dated 18th July, 2006. It is borne by record that the workman could not be served on the address given by him since the General Secretary, State Bank of India Staff Congress, through whom he had appeared, had left the country and notice sent to the workman on his address was received back. The Tribunal showed indulgence and tried to serve the notice to the workman through Shri Jaswant Singh, who had sworn an affidavit in favour of the workman, but that effort has also failed. In this between neither the workman has appeared nor he has come in the witness box to support or oppose his case on oath.

On record I find the statement of claim filed by the workman through the General Secretary of his Union the averments of which are denied by the Management through their Assistant General Manager. On record there is affidavit of Shri S.K. Gupta and Jaswant Singh supporting the claim of the workman and that of Ajit Allahabadi Manager in support of the Management. Therefore, the claim made by the workman has been opposed by the Management and the witnesses of the parties have countered the averments made by each other. The truth in their statement could be gauged only by cross-examining them but they have not come in the witness box so far.

Since the workman has stopped appearing in the case in person or through representative, therefore I do not find any evidence on record to find out whether the Management had acted illegally by not paying HRA and CCA to the workmen. As such the workman is not entitled

to any relief. The award is set aside against him. Let a copy of this award be sent to the appropriate Govt. for necessary action and the file be consigned to records after due completion.

KULDIP SINGH, Presiding Officer

नई दिल्ली, 7 नवम्बर, 2006

का.आ. 4515.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार स्टेट बैंक ऑफ इंडिया के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, चेन्नई के पंचाट (संदर्भ संख्या 105/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 7-11-2006 को प्राप्त हुआ था।

[सं. एल-12012/59/2005-आई.आर. (बी-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 7th November, 2006

S.O. 4515.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (105/2005) of the Central Government Industrial Tribunal/Labour Court, Chennai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of State Bank of India and their workman which was received by the Central Government on 7-11-2006.

[No. L-12012/59/2005-IR (B. I)]

AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
CHENNAI

Monday, the 31st July, 2006

PRESENT :

K. JAYARAMAN, Presiding Officer

Industrial Dispute No. 105/2005

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Management of State Bank of India and their workmen)

BETWEEN :

Sri G. Sundaramoorthy : I Party/Petitioner

AND

The Deputy General Manager, II Party/Management
State Bank of India, Chennai.

APPEARANCE :

For the Petitioner : Mr. R. Arumugam, Advocate

For the Management : Mr. V. R. Gopalrathnam,
Advocate

AWARD

The Central Government, Ministry of Labour *vide* Order No. L-12012/59/2005-IR(B-I) dated 3-10-2005 has referred the dispute to this tribunal for adjudication. The Schedule mentioned dispute is as follows :—

“Whether the action of the management of State Bank of India in imposing the penalty of removal from service of Shri G. Sundaramoorthy with effect from 4-5-2004 is justified or not? If not, to what relief he is entitled?”

2. After the receipt of the reference, it was taken on file as I.D.No.105/2005 and notices were issued to both the parties and both the parties entered appearance through their advocates and filed their Claim Statement and Counter Statement respectively.

3. The allegations of the Petitioner in the Claim Statement are briefly as follows :—

The Petitioner was engaged as a messenger temporarily in the Respondent/Bank from 1983. He was then made as permanent and posted in commercial branch, Chennai. In that period, he was posted in cash department. Subsequently, the Respondent/Bank took the decision to post him outside cash department, even though the Petitioner's designation is not stitching machine operator at cash department, since he was no longer enjoying the confidence of staff at cash department, he was taken out from that section, but suddenly he was again posted on 2-5-2002 without assigning any reason. The Petitioner availed LFC in the year 2000 and submitted bills and the same was sanctioned. While so, on 10-12-2001 the Respondent/Bank insisted to receive a letter stating that there are certain discrepancies in LFC bills. Since the Petitioner being a messenger wanted to receive it after consulting the union and even before getting an opinion from the union, the Respondent on 14-12-2001 again insisted to receive the letter. Thus, he never refused to receive and never disobeyed the orders of superiors. While so, on 3-5-2002 the cash officer Sri K.S. Krishnamoorthy reported that two pieces of one hundred rupee notes with serial No.OBD 807123 and 807124 were missing in the fresh denomination note pocket. Again on 10-5-2002, the same cash officer, in the morning reported missing of one piece of one hundred rupee note with serial No. 4 AM 922500 in fresh bundle. Again on 10-5-2002 around 4.00 p.m. the cash officer reported that the last piece of one hundred rupee note with serial No. 4 AM 904500 was missing. The cash officer even before reporting missing of cash informed the higher officials to come to cash department as soon as they came, he searched the Petitioner and the polythene bag kept by him in the morning in one of the unmanned counter outside the cash department and in that he picked up a 100 rupee note kept by him in his pocket, which he collected from the teller by way of exchange and he took out another 100 rupee note inside a brown cover. Thus, it was a stage managed show, as if they have found from him

and got statements from him as dictated by the cash officer. Not satisfying with this, the Respondent/Management deputed one Assistant General Manager Sri Rajinikanth to go to the residence of the Petitioner on 12-5-2002 around 2.00 p.m. and after directing the Petitioner to stay out of his residence started searching the whole house for more than one hour and further put unwanted and embarrassing questions to the Petitioner's wife. Thus, it shows the highhanded act of Respondent to wreck some vengeance on him even though nothing could be located from his residence. By an order dated 15-5-2002 the Petitioner was placed under suspension. The Respondent issued another memo dated 29-4-2002 alleging that he refused to receive letter dated 7-12-2001 on 10-12-2001 and on 14-12-2001. Again the Respondent issued a memo dated 3-8-2002 alleging that he surreptitiously removed 100 rupee notes from cash department. Though the Petitioner denied all those allegations, the Respondent/ Management ordered an enquiry. Again on 25-3-2003 the Respondent/Bank issued an amendment to charge No. 3 (11) and the enquiry was started on 15-9-2003. The Enquiry Officer after completion of examination of witnesses even allowed the Respondent/ representative to examine two more witnesses even in spite of objection raised by the Petitioner and his representative. The procedure adopted by the Enquiry Officer is putting the cart before the horse. The whole procedure is illegal and against the well established settled procedure and hence the whole enquiry and resultant findings are illegal and contrary to procedure and not fair and proper and against the principles of natural justice. The Enquiry Officer allowed the management representative to mark a document through a person who is not the author of the said document and the Enquiry Officer acted totally one sided and gave a finding that all the charges are proved against the Petitioner. This finding is perverse and one sided, when especially there is no material oral or documentary evidence against the Petitioner and he has come to a wrong conclusion based on certain assumptions and presumptions and thus he has given a perverse finding stating that charge No.1(i) to 1 (iv) is not proved and 1 (v), 2 and 3 are proved. Based on the perverse findings, the Disciplinary Authority issued a final order dated 4-5-2004 in terms of clause 6(b) of Memorandum of Settlement. The petition preferred by the Petitioner before the Appellate Authority was dismissed on 11-8-2004. Therefore, Petitioner raised a dispute before the labour authorities. Since the enquiry was not fair and proper and the findings of the Enquiry Officer are perverse and one sided, the Petitioner prays this Tribunal to set aside the findings given by the Enquiry Officer and the punishment imposed by the Disciplinary Authority.

4. But, as against this the Respondent in its Counter Statement alleged that transfer of Petitioner to cash department was only for administrative reasons and it cannot be questioned by the Petitioner. The Petitioner was deliberately refused to receive the letter given by the branch

seeking clarification on the LFC bill submitted by him on false and untenable pretexts. The refusal to receive letters from the Respondent/Bank and thwarting attempts to serve on him would amount to insubordination and wilful disobedience of lawful orders. No motive can be attributed for deputing AGM to the residence of the Petitioner as he had gone to the residence of the Petitioner for the purpose of investigation at preliminary stage prior to initiation of the disciplinary action against the Petitioner. It is false to allege that the procedure adopted by the Enquiry Officer is wrong. The Petitioner was given adequate and reasonable opportunity to cross examine the witnesses examined on the side of the Respondent/Management. There was no violation of principles of natural justice. It is false to allege that words appearing in charge sheet are vague as alleged by the Petitioner. The Enquiry Officer has observed that the alteration made in the tickets is too visible to be missed. Non-receipt of letters of the bank by an employee deliberately will amount to wilful disobedience of the order. Missing notes were found in the possession of Petitioner or in his bag. The reasons adduced by him which are miserably failed. The Petitioner's contention that there was previous enmity is only an imaginary and such allegations were made only to cover up his lapses. It is false to allege that he made a statement at the instance and dictation of cash officer. In the banking business, by every employee, absolute devotion and honesty need to be preserved and if it is not observed, the confidence of public/depositors would be impaired. Even though the amount involved in the matter is small, yet it is a serious crime for which no sympathy can be shown in favour of the Petitioner. When the workman is charged for serious misconduct, one cannot go by number of years of service put in by workman or his age or by his marital status and on account of the proved misconduct, the Respondent/Bank has lost confidence placed in him. Hence, the punishment of dismissal without notice in this case is justified. Therefore, the Respondent prays that the claim of the Petitioner may be dismissed, with costs.

5. In these circumstances, the points for my consideration are—

- (i) "Whether the action of the management in imposing the penalty of removal from service of the Petitioner w.e.f. 4-5-2004 is justified or not?
- (ii) "To what relief the Petitioner is entitled?"

Point No.1:—

6. In this case, three charges have been framed against the Petitioner. Out of this, the first charge contains five items. After the findings given by the Enquiry Officer, the Disciplinary Authority held that that charge No.1 (v), 2 and 3 are proved against the Petitioner and he has imposed the punishment of removal from service w.e.f. 4-5-2004. The Petitioner is now attacking the findings and also the imposition of punishment as illegal. According to the

Petitioner, enquiry was not conducted in a fair and proper manner and the findings given by the Enquiry Officer is perverse and therefore, the punishment imposed on him is illegal. In order to establish his case, the Petitioner produced documents Ex.W1 to W24 and the Respondent/Management has produced Ex. M1 to M1. No witness was examined on either side before this Tribunal.

7. Learned counsel for the Petitioner contended that the whole enquiry and resultant findings are illegal and contrary to procedure and not fair and proper and also against the principles of natural justice. He further contended that the Enquiry Officer after completion of examination of witnesses, even allowed the management representative to examine two more witnesses instead of the objection raised by the Petitioner and his representative. The procedure adopted by the Enquiry Officer was putting cart before the horse and it is wholly against the settled procedure. He further contended that the Enquiry Officer even before examination of the management witnesses asked the Petitioner to examine his witness and allowed the management to cross examine the witnesses. Only after examination of defence witness, the Enquiry Officer asked the management representative to examine their witness and the management representative examined two witnesses and subsequently, after completion of examination Petitioner's witness allowed the management representative to examine two more witnesses, which is a strange procedure followed by the Enquiry Officer and it vitiates the whole enquiry. Further, the Enquiry Officer allowed the management representative to mark the document Ex.P7 through a person who is not the author of the said document even in spite of the objection raised by the Petitioner in the enquiry. Here also, the Enquiry Officer acted contrary to the well established procedure. Hence, the Petitioner alleged that the whole enquiry is not fair and proper and it is vitiates.

8. But, on the other hand, the learned counsel for the Respondent contended that it is not correct to say that the Enquiry Officer has asked the Petitioner to examine his own witness before examining the management witnesses. On 23.9.2003 the Presenting Officer informed the Enquiry Officer that he will bring his witnesses in the next sitting and in the mean time, the defence representative represented to the Enquiry Officer that he is ready to present his witness and he requested the permission of the Enquiry Officer. Only then, the Enquiry Officer has permitted the defence representative to examine his witness and it cannot be said that the Enquiry Officer has asked the Petitioner to examine his own witness before examining the management witnesses. No doubt, there is an irregularity, but it cannot be blamed that the Enquiry Officer has compelled the Petitioner to examine his own witness before examining the management witnesses. On the other hand, it is only the representative of the Petitioner who has asked the Enquiry Officer to examine Petitioner's witness even before the

examination of the management witnesses. No doubt, the procedure followed by the Enquiry Officer is not a correct one, but it cannot be said that by this, the Enquiry Officer has conducted the enquiry in an illegal manner. It was conducted only on the request of the defence representative and he has not objected for the examination of defence witnesses even before examining the prosecution witnesses. Similarly, even though the Petitioner objected that after the examination of defence witnesses, the management again wanted to examine two more witnesses, it was permitted by the Enquiry Officer even after the objection made by the defence representative of the Petitioner. But, even though the representative of the Petitioner has objected to the examination of management witnesses after examination of defence witnesses, he asked the Enquiry Officer that if the Enquiry Officer is allowed the request of the Presenting Officer to examine some more witnesses, he may be permitted to examine defence witnesses after that and the permission was also granted to him and therefore, no prejudice was caused to the Petitioner by examining another witness in this case and the defence representative has not strongly objected to the examination of management witnesses after examination of defence witnesses. Under such circumstances, even though the procedure followed by the Enquiry Officer is not a correct one, the Petitioner has not seriously objected to the procedure at that time and he has participated in the enquiry and therefore, it cannot be said that by all these things, the Petitioner was prejudiced and the enquiry is vitiated.

9. Then the learned counsel for the Petitioner contended that the findings of the Enquiry Officer is very cryptic and without any discussion with oral and documentary evidence and the Enquiry Officer even failed to consider the oral evidence of TW1 to TW5 and even without referring to these evidences came to the wrong conclusion that all the charges are proved. The enquiry findings will show that the Enquiry Officer acted on one sided manner and hence, the finding is perverse.

10. But, on that ground we cannot say that it is a perverse finding because the reason given by the Enquiry Officer in a departmental enquiry cannot be equated to be as that of Judicial Magistrate in a criminal court or civil court. Under such circumstances, I am not inclined to accept the contention of the learned counsel for the Petitioner that on that ground it can be said as one sided finding.

12. Then the learned counsel for the Petitioner contended that though charges 1 (i), 2 and 3 are framed against the Petitioner have been held as proved, the Disciplinary Authority had come to a different conclusion that part of charge No.1 (v) and charge nos.2 and 3 were alone proved in which charge No. 1 (v) is that tickets produced for journey from Madurai to Trichy in the claim of the Petitioner for LFC have been disfigured deliberately. In the charge sheet the word used is appeared to have

been disfigured and there is no definite allegation that it was disfigured by the Petitioner himself and there is no whisper that the Petitioner has done this deliberately and therefore, the charge itself is very vague. Further, except this vague allegation, there is no oral or documentary evidence to show that disfiguring attempts were done deliberately. On the other hand, the Petitioner has given an explanation that the quality of paper, printing material, handling of tickets both by conductor as well as by the Petitioner contributed to the bad shape of tickets submitted by the Petitioner after availing LFC. When charges 1 (i) 1 (iv) are held to be not proved, then the charge 1 (v) is which is interlinked with charges 1 (i) and 1 (iv) cannot be said to be proved. Therefore, the conclusion of Enquiry Officer and also the Disciplinary Authority is not correct. From EX. M2 at page 105, it can be seen that the ticket was in a bad shape and there is no disfiguring as alleged by the Respondent/Management and that too deliberately, therefore, he argued that charge No. 1 (v) cannot be stated as proved and without any discussion and without appreciating the evidence produced in this case, the Enquiry Officer has come to the wrong conclusion that charge No.1(v) has been proved against the Petitioner.

13. But, as against this learned counsel for the Respondent contended that it is false to contend that charge No. 1 (v) is vague. Learned counsel for the Petitioner intentionally with a view to mislead this Tribunal omitted the words "deliberately" appearing after "appear to have disfigured". The Enquiry Officer has observed that alteration made in the ticket is too visible to be missed and he further observed that it is only in respect of bus fare. The Disciplinary Authority has concurred with the findings of the Enquiry Officer. Under such circumstances, the allegation that this charge is vague and neither the Enquiry Officer nor the Disciplinary Authority gone through the records is made only to wriggle out the situation.

14. Then again the learned counsel for the Petitioner contended that the 2nd charge framed against the Petitioner is that he failed to obey the lawful and reasonable orders of the Respondent/Management. The order they have referred to in the charge sheet is that letter dated 7-12-2001 calling for explanation relating to discrepancies in LFC bill, was not received by him when presented to him on 10-12-2001 and on 14-12-2001. It is an admitted fact that he has received the letter dated 7-12-2001 on 28-8-2002 and the explanation given by the Petitioner was when the letter was presented to him on 10-12-2001, he stated that he would receive the same after consulting the union, but he could not meet the union people before 14-12-2001 and therefore, the said letter was again presented to him on 14-12-2001, he told that he could not meet the union people and therefore, it cannot be said that he refused to receive the said letter. Being a messenger, and being, an illiterate person, he wanted to take advise of the union and it is a bonafide reason and therefore, it cannot be said that this charge has

been proved. Further, admittedly in the charge there is no allegation that the Petitioner has wilfully refused to receive or want only/wilfully disobeyed the orders of the superiors. Therefore, in the absence of any allegation of wilful disobedience, it cannot be said that charge No.2 is proved against the Petitioner. Therefore, the finding is a perverse one and it is not proved by any oral or documentary evidence.

15. But, as against this, learned counsel for the Respondent contended that in this case, it is admitted that when a memorandum was issued to him, the Petitioner has not received the same, therefore, non-receipt of a letter of the bank by an employee deliberately when given to him amounts to wilful disobedience of the order and hence, it cannot be contended that the Petitioner has not refused to receive the same. Though, he has given a reason that he after consulting the union people, he was ready to receive the same, an employee of the bank cannot refuse to receive the letter given by Respondent/Management on the ground that he wanted to consult the union people before receiving the letter given by Respondent/Management. Under such circumstances, the refusal by the Petitioner to receive letter given by the Respondent/Management is wilful and deliberate act. Under such circumstances, it cannot be said that there is no refusal on the part of the Petitioner to receive the letter given to him.

16. I find much force in the contention of the learned counsel for the Respondent. Since the Petitioner was an employee under Respondent/Management and since the Respondent/Bank has given a letter to the bank with regard to discrepancy in LFC bills, he has to receive it and he cannot say that after consulting the union people, he would receive the same. Therefore, the action of the Petitioner in not receiving the same is a deliberate and wilful one. As such, I find there is no point in the contention of the learned counsel for the Petitioner with regard to this charge.

17. Then the learned counsel for the Petitioner contended that in the year 2001 since the cash officer made a false statement against him and on that basis without represented into the matter, the administrative department has taken a decision not to post the Petitioner in cash department. But, subsequently even without informing the Head Office he was posted in cash department on 2-5-2002. But, this was not liked by the people in cash department of the Respondent/Bank and therefore, on 10-5-2002, around 4.00 pm, the cash officer reported missing of a piece of one 100 rupee note and before that he did not specify the number of note in writing or orally and even before reporting of missing of cash, he informed the higher officials to come, to the cash department and even before they came, the cash officer searched the Petitioner and the polythene bag kept by him in the morning in one of the unmanned counter outside the cash department and in that search he picked up one 100 rupee note kept by him in

his pocket which he collected from the teller on that day and the cash officer took out another 100 rupee note from polythene bag and another 100 rupee note from a brown paper cover and immediately on taking these three notes, the cash officer informed these three notes are the missing notes. But there is no complaint of missing of note either on 3-5-2002 or on 10-5-2002 morning. Only after taking the three notes from the Petitioner, the cash officer has stated the one relates to missing note on 3-5-2002 and another related to 10-5-2002 morning and another related to 10-5-2002 evening. Thus, the action of the cash officer is stage managed and he obtained three statements from the Petitioner as dictated by him. Further, the numbers mentioned in the charge sheet and the amended charge sheet will clearly show their mistake and it also shows their intention to victimize the Petitioner. (After the period of nine months the Respondent/Bank amended the charge by making a correction that note serial number 4 AM 922500 was recovered from his shirt pocket and thus they have stated in one place that note serial number 4 AM 922500 was recovered from shirt pocket and in another place, the said note was recovered from his bag, and in another place it is stated that it was recovered from polythene bag and no witness has stated about the recovery from him except the interested witness of cash officer. The note slip in the cover alleged to have been taken from the bag also clearly reveals that it was a cooked up story for the purpose of victimizing the Petitioner. In this case, there is no corroboration of evidence of the cash officer, who has got enmity with the Petitioner. Further, even assuming for argument sake that the Petitioner has taken one 100 rupee note on 3-5-2002 it is futile to contend that he has kept this note for seven days in his polythene bag and no person will keep the note with him for days together after removing stealthily and that too in his bag or pocket. This fact has not been considered by the Enquiry Officer nor the Disciplinary Authority. In this case, it is admitted that polythene bag which was kept by the Petitioner in the unmanned counter away from the work place and anybody can in his absence insert the note in it. The very fact that the cash officer himself brought the polythene cover shows that the Petitioner is an innocent person in this matter and only with the connivance of the staff in the bank, the cash officer has inserted the same in the polythene bag. Thus, charge no.3 was not proved in the enquiry. Under such circumstances, it cannot be said that the dismissal of the Petitioner from service is justified in this case. Further, this Tribunal under section 11A of the I.D. Act has got ample powers to interfere with the matter and set aside the illegal punishment imposed on the Petitioner. It is his further contention that the Petitioner has put in 18 years of continuous unblemished record of service. Without looking into all these things, the Disciplinary Authority has imposed the punishment of removal from service and therefore, this Tribunal can interfere with the punishment imposed on him.

18. As against this, learned counsel for the Respondent contended that fact remains that missing notes were found in the possession of the Petitioner and/or in his bag. The reasons adduced by the defence had to be proved by the Petitioner which he miserably failed. The Petitioner's contention that he was victimized or there was previous enmity is only imaginary and such allegations have been made only to cover up his lapses. Further, the allegation that he made statements at the instance and dictation of cash officer is a false one because, he has not raised any complaint subsequent to that incident to any higher officials. It is also false to allege that the Enquiry Officer and Disciplinary Authority have not considered the deposition given by the defence witnesses. Learned counsel for the Respondent further contended that in banking business, absolute devotion and honesty need to be preserved by every bank employee and relied on the rulings reported in 1998 4 SCC 310 VISWAMOHAN Vs. UNION BANK OF INDIA, wherein the Supreme Court has held that "if such absolute devotion and honesty is not preserved by every bank employee, the confidence of public/depositors would be impaired." He further contended that even though the amount involved in this matter is small, yet it is a serious crime for which, no sympathy can be shown to the Petitioner. He further relied on the rulings reported in 1980 ILLJ 425 SRI GOPALAKRISHNA MILLS Vs. LABOUR COURT wherein it is held by the Madras High Court that "*when a workman was charged for serious misconduct, one cannot go by number of years of service put in by the workman or by his age or by his marital status.*" In this case, it is clearly established that misconduct alleged against him has been proved and the Respondent has lost confidence on the Petitioner and hence, the punishment of removal from service imposed in him is justified and on such circumstances, learned counsel for the Respondent contended that it is not a fit case to interfere under section 11A of the I.D. Act.

19. I find much force in the contention of the learned counsel for the Respondent. In this case, though the Petitioner alleged that he has got enmity with the cash officer, it is not established either before the domestic enquiry or before this Tribunal that cash officer has got any enmity against the Petitioner and it is only mere an allegation against the cash officer. Further, there is no proof for the allegation that cash officer has inserted the amount in the pocket of the Petitioner or in the bag belongs to the Petitioner. Under such circumstances, the allegation that due to enmity, the cash officer has stage managed this incident cannot be believed. As such, I find this point against the Petitioner.

Point No.2:—

The next point to be decided in this case is to what relief the Petitioner is entitled?

20. In view of my foregoing findings that the action of the Respondent/Management in imposing punishment

of removal from service is justified, I find the Petitioner is not entitled to any relief. No Costs.

21. Thus, the reference is answered accordingly.
(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 31st July, 2006.)

K. JAYARAMAN, Presiding Officer

Witnesses Examined:

On either side :NONE

Documents Marked:

For the I Party/Claimant :

Ex.No.	Date	Description
W1	07-12-01	Xerox copy of the memo issued to Petitioner
W2	29-04-02	Xerox copy of the memo issued to Petitioner
W3	15-05-02	Xerox copy of the suspension order
W4	22-02-02	Xerox copy of the letter from Petitioner to Respondent
W5	11-06-02	Xerox copy of the letter from Petitioner to Respondent
W6	03-08-02	Xerox copy of the memo issued to Petitioner
W7	12-08-02	Xerox copy of the letter from Petitioner to Respondent
W8	29-08-02	Xerox copy of the letter from Petitioner to Respondent
W9	17-09-02	Xerox copy of the charge sheet issued to Petitioner
W10	24-09-02	Xerox copy of the letter from Petitioner to Respondent
W11	23-05-02	Xerox copy of the amendment to charge sheet
W12	Nil	Xerox copy of the enquiry proceedings
W13	Nil	Xerox copy of the defence brief submitted to Enquiry Officer
W14	13-01-04	Xerox copy of the findings of Enquiry Officer
W15	21-01-04	Xerox copy of the letter from Petitioner to DGM
W16	17-03-04	Xerox copy of the show cause notice
W17	23-03-04	Xerox copy of the representation given by Petitioner to DGM
W18	04-05-04	Xerox copy of the removal order
W19	12-06-04	Xerox copy of the appeal preferred by Petitioner to GM
W20	11-08-04	Xerox copy of the order in appeal

W21 04-11-04 Xerox copy of the letter from Petitioner to Assistant Labour Commissioner (Central)

W22 04-11-04 Xerox copy of the letter from Petitioner to Assistant Labour Commissioner (Central)

W23 17-02-05 Xerox copy of the letter from Petitioner to Assistant Labour Commissioner (Central)

W24 11-0-05 Xerox copy of the letter from Petitioner to Assistant Labour Commissioner (Central)

For the II Party/Management :

Ex. No. Date Description

M1 06-09-02 to 14-11-03 Xerox copy of the enquiry proceedings

M2 14-11-03 Xerox copy of the exhibits filed in enquiry proceedings.

नई दिल्ली, 7 नवम्बर, 2006

का.आ. 4516.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार अलीगढ़ क्षेत्रीय ग्रामीण बैंक के प्रबंधतांत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कानपुर के पंचाट (संदर्भ संख्या 78/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 7-11-2006 को प्राप्त हुआ था।

[सं. एल-12012/190/2002-आई.आर.(बी-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 7th November, 2006

S.O. 4516.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 78/2002) of the Central Government Industrial Tribunal/Labour Court, Kanpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Aligarh Kshetrya Gramin Bank and their workmen which was received by the Central Government on 7-11-2006.

[No. L-12012/190/2002-IR (B-I)]

AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE SRI SURESH CHANDRA PRESIDING OFFICER CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT SARVODAYA NAGAR, KANPUR, U.P.

Industrial Dispute No. 78 of 2002

In the matter of dispute between :—

The President
Aligarh Kshetrya Gramin Bank
Head Office Aligarh.

And

Sri R K Mishra, Executive Member
All India Regional Rural Bank Employees
Association C/o Kanpur Kshetrya Gramin Bank
Kalyanpur, Kanpur.

AWARD

1. Central Government, Ministry of Labour, New Delhi vide its notification No. L-12012/190/2002/IR (B-I) Dated 14-11-2002 has referred the following dispute for adjudication to this tribunal :—

KYA ALIGARH KSHETRIYA GRAMIN BANK
ALIGARH DWARA SRI ASHWNIKUMAR PUTRA
SRI SHANKER LAL KO UNKI PRARA MBHIK
NIYUKTI KI TITHI DINANK 25-11-98 SE
PURNAKALIK SANDESHWAHAK NAHI
MANKAR SUMPURNA BAKAYA RASHI KA
BHUGTAN NAHI KIYA JANA VAIDH AVAM
NYAYOCHIT HAI? YADI NAHI TO SAMBANDHIT
KARMKAR KIS ANUTOSH KA HAQDAR HAI.

2. The claim in short as set up by the union on behalf of the workman is that the opposite party bank appointed the workman on 23-11-89 in terms of appointment order issued by the bank on permanent basis. Though the workman was designated as part time regular messenger but the bank used to take work from him for full days time from 10.00 a.m. to 5.00 p.m. The opposite party never fixed in writing the working hours of the workman as part time messenger; nor there was any such condition stipulated in the appointment order. It is alleged that all of sudden the bank issued a letter dated 1-5-96 to the workman appointing him as afresh at the post of messenger at the minimum of scale of Rs. 815-1520. It has also been pleaded by the workman that a person is appointed only once in a service either on temporary basis or on probation and thereafter services are confirmed by the employer but in the case of the workman he was issued appointment twice which is neither legal nor justified and the workman would be deemed to have been appointed as full time employee from the date of issuance of appointment order dated 23-11-89. It has also been alleged that similar issue was raised before Labour Court at Jaipur on behalf of Jaipur Nagar Anchalik Gramin Bank where the bank lost the case and preferred a writ petition before Hon'ble High Court. The Hon'ble High Court of Rajasthan considering the merit of the case dismissed the writ petition filed by the bank. On the basis of above it has been prayed that the action of the management be held as unjustified and the workman be granted relief as claimed by him.

2A. The claim of the workman has been contested by the opposite party bank by filing detailed written statement inter alia alleging there in that the bank never appointed any employee as part time messenger before receipt of guidelines from NABARD and after issuance of guidelines by the NABARD the bank initiated steps and appointed the claimant and others as part time regular messenger as regular employee of the bank and issued

appointment letters after completing the required formalities. The claim of the workman is therefore misconceived and is liable to be rejected. Initially apart from Manager one clerk and part time regular messenger were posted at the branch. The claimant was posted and appointed for doing parttime work at the branch though the working hours of the branch was as usual. As the workman was appointed regular part time messenger from 25-11-89 subsequent to the implementation of NIT Award therefore any claim before the date of appointment does not arise. After implementation of NIT Award all parttime regular messengers were given benefits of the same by fixing their pay accordingly. The arrears with effect from 25-11-89 on scale wages have subsequently been paid to all employees including the claimant. Therefore question of depriving the workman from the benefit does not arise at all. Like the workman there were two other parttime regular messenger working with the bank and the matter was taken up with the NABARD and with the approval of Board of Directors of the bank both workmen were offered appointment as full time messenger-cum-sweeper on full scale wage and they were appointed accordingly w.e.f. 1-5-96 with probation for one year as per conditions of service regulations. It has also been pleaded by the bank that management has not committed any illegality if the workman was appointed on probation after the approval granted by the Board of Directors of NABARD. Therefore, the claim of the workman is liable to be rejected being devoid of merit.

3. After exchange of pleadings between the parties both parties adduced oral as well as documentary evidence in support of their claim and counter claims.

4. Tribunal heard the arguments advanced by the contesting parties at length and have also perused the record carefully.

5. It has been contended on behalf of the workman that the workman could not have been issued appointment letter twice as has been done in the case of the workman. On the contrary it has been argued by the opposite party bank that after issuance of guidelines the workman first appointed as part time regular messenger and after the approval of NABARD the workman was appointed as full time messenger on probation and the said offer of appointment was accepted by the workman without any demur or objection and accordingly workman started working as regular messenger on full wages. After considering the rival contention raised by the contesting parties, tribunal finds force in the arguments of the opposite party bank. Once having accepted the appointment on full time messenger on full scale without any demur workman cannot be allowed to raise any grouse that he be treated as full time messenger on full pay from the date when he was appointed as part time regular messenger. Moreover the claim of the workman appears to be misconceived as the

management of opposite party bank in itself is not competent to grant the relief as claimed by him as it is a policy decision to be taken by NABARD which admittedly allowed full time messenger on regular basis and on the basis of that decision the workman was appointed on regular basis on probation. Therefore, there appears no illegality in the action of the opposite party if they appointed the workman on probation w.e.f. 1-5-96 on probation. From this point of view the workman cannot be granted the relief as claimed by him in the present reference. Further principle of estoppel would also come into play against the workman, and on this ground the workman is estopped to raise grievance against the opposite party bank. Admittedly worker was offered part time appointment as per worker Ex. 2

6. It has next been contended by the authorised representative that the present claim has been raised belatedly in the year 2002 without showing acceptable reason. On the contrary authorised representative for the workman could not meet out the arguments advanced by the authorised representative for the workman. Therefore, tribunal finds substance in the arguments raised by the authorised representative for the bank and it is held that present reference is belated one. On this ground also workman cannot be held entitled for any relief as claimed by him.

7. For the reasons as discussed above it is held that the action of the opposite party bank as detailed in the schedule of reference order is fully justified and legal and workman cannot be held entitled for any relief.

8. Accordingly reference is answered in affirmative and against the workman.

SURESH CHANDRA, Presiding Officer

नई दिल्ली, 7 नवम्बर, 2006

का.आ. 4517.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार नार्थ ईस्टर्न रेलवे के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, लखनऊ के पंचाट (संदर्भ संख्या 111/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 7-11-2006 को प्राप्त हुआ था।

[सं. एल-41012/10/2002-आई.आर.(बी-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 7th November, 2006

S.O. 4517.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 111/2002) of the Central Government Industrial/Tribunal Labour Court, Lucknow now as shown in the Annexure in the Industrial Dispute between the employers in relation

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL No. 2AT
MUMBAI

PRESENT:

A.A. LAD, Presiding Officer

Reference No. CGIT-2/219 of 1999

Employers in relation to the Management of
Konkan Railway Corporation Ltimited

The Chairman,
Konkan Railway Corporation Ltimited,
Belapur Bhavan, Sector-11
CBD Belapur,
Navi Mumbai-400 614

AND

THEIR WORKMEN

Shri Prashant D. Surve

At Post Tal. Khed

Shivaji Nagar

Distt. Mumbai 400 614.

APPEARANCES:

FOR THE EMPLOYER : S/Shri S.K. Talsania,
V.H. Kantharia,
J.K. Mistry, Advocates

FOR THE WORKMEN : Shri S.D. Tigde
Advocate

Date of passing of Award : 3rd October, 2006

AWARD

1. The Government of India, Ministry of Labour by its Order No.L-41012/201/99/IR(B-I) dated 22nd November, 1999 in exercise of the powers conferred by clause (d) of sub- section (1) and sub-section 2 (A) of Section 10 of the Industrial Disputes Act, 1947 have referred the following dispute to this Tribunal for adjudication:

“Whether the action, of the management of Konkan Railway Corporation Ltd., Navi Mumbai in terminating the employment of Shri Prashant D. Surve, Driver with effect from 26-6-1995 is legal and justified ? If not, what relief the workman concerned is entitled to?”

2. To support the subject matter referred in the reference Second party files Statement of claim in person at Ex-6 stating that, he was engaged by the First party as driver on consolidated salary Rs. 1500/- p.m. with effect from 22-3-93. On 7-6-95, complaint was lodged against Second party with Mahad Police Station regarding alleged theft of air cooler. He was arrested. He was detained in custody. Criminal trial was conducted against him. In the said criminal trial, Mahad Magistrate acquitted Second party by order dt. 28-10-98.

3. Relying on the complaint lodged against Second party in the Mahad Police station and his arrest in that connection, action was taken by the first party of termination dt. 26-6-95. According to 2nd party it was not according to procedure and as per provisions of ID Act. Second party completed 240 days in the employment of first party and attract deeming provision of permanency with the establishment of the first party. In that premises first party cannot terminate him without following due process of law. In the instant case, Second party was terminated solely relying on the arrest by the Mahad Police Station. No charges were leveled by issuing chargesheet. No opportunity given to Second party to explain charges. Inquiry was not conducted and opportunity was not given to Second party to listen him on the alleged charges. Besides, he was acquitted by the Magistrate and as such, decision taken by first party of termination required to quash and set aside with a direction to it of reinstatement and benefits of backwages.

4. This prayer is disputed by first party by filing Written Statement at Ex-9 stating that, Second party was appointed purely on temporary basis and on terms of contract. After expiry of contract he was terminated and in that case, first party was not supposed to give notice or follow any provisions to ask Second party not to report on duty. Since Second party was appointed purely on temporary basis from 4-11-93 and his period comes to end on May 1994, his services automatically comes to an end and simply he was informed by letter dt. 21-12-94 which he accepted without any grievances. Besides, criminal case was registered against Second party with Mahad Police Station regarding theft of air cooler which belonged to first party in which he was arrested. Air cooler was recovered from his house. He was prosecuted. As witnesses turned hostile, Mahad Magistrate acquitted him, which does not mean that, he was not concerned with alleged theft. Besides he lost confidence of first party and in that case, he cannot claim reinstatement. Since Second party was posted purely on contract basis for years, he cannot claim reinstatement as first party found good reason to terminate services of Second party relying on criminal case filed against Second party. So it is stated that, action taken of temination is just, proper and does not require any interference.

5. In view of above pleadings, My Ld. Predecessor framed issues at Ex-II which I answer as follows :

Issues	Findings
1. Whether, the management is required to hold a departmental enquiry before passing of the order of dismissal in respect of concerned Workman?	Yes
2. Whether, Prashant Survey, the concerned Workman was appointed on contract basis?	No

3. Whether, the action of the management of Konkan Railway in terminating the employment of Surve, Driver w.e.f. 26-6-95 is legal and justified?	No
4. If not, what relief the workman concerned is entitled to?	Second party is entitled to reinstatement w.e.f. the date of this order.

Reasons

Issues Nos. 1 & 2

6. Here by these issues, necessity of holding enquiry before passing such a order is the subject matter taken for consideration. Since first party states that, Second party was appoint on contract basis, it was not necessary to conduct enquiry as his period comes to end as that period of end of contract period. Whereas Second party take strong stand that, though he was appointed on contract basis, he completed 240 days with first party and attract deeming provision of permanency which require first party to follow the procedure of Section 25 of I.D. Act before implementing termination.

7. First party states that, Second party was taken on contract basis, whereas Second party states that, though he was appointed on contracted basis, his tenure with first party for more than 240 days protect him.

8. It is matter of record that, Second Party entered into contract with First party with effect from 4/1/93 and worked with it till 26/6/95. If we count that period definitely it completes more than 240 days and then deeming permanency plays role. By virtue of that deeming provisions of permanency definitely second party required to call as a permanent employee. Besides decision upheld by Hon'ble High Court of Labour Court in case of Maharashtra General Kamgar Union V/s. Anand Kamal Co-operative Housing Society Ltd. and others published in 1994-II LLN Page 80^t reveals that, Labour Court treat employment of employee of that case as a permanent employee though workman involved in the case supra worked temporary with employer as he attract permanency and observe their termination cannot be affected with out following due process of law. Besides in decision of Madras High Court published in 2003 (II) LLN page 156 reveals that, if a workman continues to work more than 240 days and he was terminated without issuing chargesheet and holding enquiry, it is observed that such termination is illegal. Even same type of view is taken by Apex Court while deciding appeal of Scooters India Ltd. V/s. M.

Mohammad Yaqub and Ans. published in 2001 (I) CLR page 207 observing that termination of contracted employee cannot be effected automatically and there, principal of natural justice were required to be complied and followed before such termination.

9. Here, on the basis of alleged criminal case, first party decided to terminate the service of Second party saying that it lost its confidence. Besides it is matter of record that, said workman worked with first party for more than 240 days. Legally said workman attract protection given in labour law and more precisely protection given under Section 25 of I.D. Act.

10. It is matter of record that, no charge sheet was given to Second party. It is matter of record that, enquiry was not conducted against him and opportunity was not given to explain the charges of theft which were in the criminal case. Besides he was acquitted by the magistrate. So all these reveals that, first party simply relies on the action of the Mahad Police who arrested and prosecuted second party workman.

11. Number of citations are produced by first party's advocate which are in numbers. Even first party has not given the number of citations on which it was to rely. Just it to go on tagging one by one with its Written Submission filed at Ex-50. Most of them are on point of misconduct and reveal, when charges of misconduct was sufficiently proved, in that case, it is not necessary to issue chargesheet and conduct an enquiry. But here, it should be noted that, how it can be said that, charge of misconduct is proved as happened in the referred cases? Admittedly no chargesheet was served on second party and enquiry conducted. Admittedly, explanation was not sought from second party regarding alleged charges which were in the mind of first party. In that case, how it can be said that charge of misconduct was sufficiently proved as happened in number of citations referred by first party and on which it place reliance to justify its action of termination? In most of those case referred by advocate for first party, there was "proved misconduct". But here, before us is not a case of proved misconduct. Proved misconduct means Misconduct which is proved and observed to that effect by any competent authority like enquiry officer, or by competent court. Here, it is to be noted that, criminal case which was filed, ends in acquittal. Simply there was arrest and prosecution of second party. No charge sheet was served and enquiry conducted. First party simply cannot rely on the criminal case and that too only on criminal trial which is of no use since that trial ended in acquittal, where second party was acquitted from the charge of theft. When that is the base on which first party is saying that it has case of "proved misconduct" against second party, in my considered view it is not sufficient to bring case of the second party in the definition of "proved misconduct". According to me in

such case enquiry was must. As nothing was with first party to take action against second party it cannot simply sit on such presumption.

12. When second party claim that, he is a permanent employee and he is working for more than 240 days with first party support his case and doesn't permit first party to state that, second party was purely appointed on contract basis. Besides appointment order produced by second party dt. 5-11-93 reveals that, he has completed six months satisfactory service and he is posted against the vacancy of removal of Sayyed Jahid, driver. This order reveals that, second party completed probation period and got appointment in vacancy of Sayyed who was removed. This itself reveals that, this cannot be an appointment only on contract basis. This appointment order cannot be treated as an appointment for particular period and on conditions. Generally, appointment on contract is given for particular period and on particular terms and conditions. Here no such particular period is given and no terms & conditions are laid as are expected in contract order. So I observe that, holding enquiry was must and second party was not appointed on contract basis.

Issues Nos. 3 & 4

13. It is matter of record that, first party terminated second party without issuing charge sheet and without holding domestic enquiry. It is matter of record that no opportunity was given to him. It is matter of record that, first party rely on the criminal case filed by Mahad Police Station and prosecution conducted against him by Mahad Police Station. In my considered view that cannot be sufficient ground to take such a action of termination which is highest conviction in the labour jurisdiction. So in my considered view, action of first party of termination is not legal and justified. First party placed reliance simply on the prosecution of second party by Mahad Police. However, it conveniently ignored the final result of the Prosecution of Mahad Police which ended in acquittal. When second party was acquitted from criminal case, the base on which the first party took action of termination itself withers away and it does not support the decision of the first party in any way. So I am of the view that, action of first party in terminating second party is not legal and justified.

14. Second party claimed reinstatement with benefits of backwages. It is matter of record that termination was effected from 26-6-95. Criminal case was decided on 20-1-0-98. The date of said acquittal we can read from Ex-I7/I. Reference was made by the competent authority in 1999 on termination dt. 26-6-95. Four years already gone there and this reference is taken for decision in 2006. That means from 1995 to 2006 this second party did not work for first party. First party is public undertaking doing work for public and more precisely utilized work of second party i.e.

recruited him on railway work, which constructed Konkan Railway Track, whose reputation is counted through out the world. When second party has not worked with first party, in my considered view, question of awarding backwages does not arise. At the same time we cannot ignore that, without proper procedure second party was removed. In this circumstance, I feel it is just and proper and which meets the ends of justice to reinstate second party on post of Driver without order of backwages. So I answer these issues to that effect.

15. In view of discussions made above, I conclude that, reference of the second party required to be allowed partly, hence the order.

ORDER

Reference is partly allowed with no order as to its cost. First party is directed to reinstate second party as driver with immediate effect. Prayer of second party of backwages is rejected.

A.A. LAD, Presiding Officer

Mumbai Dt. 3-10-2006

नई दिल्ली, 14 नवम्बर, 2006

का.आ. 4519.—कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा-1 की उप धारा-(3) द्वारा प्रदत्त शाकियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा 01 दिसंबर, 2006 को उस तारीख के रूप में नियत करती है, जिसकों उक्त अधिनियम के अध्याय-4 (44 व 45 धारा के सिवाय जो पहले से प्रवृत्त हो चुकी है) अध्याय-5 और 6 (धारा-76 की उपधारा (1) और धारा 77, 78, 79 और 81 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है) के उपबन्ध उत्तरांचल राज्य के निम्नलिखित क्षेत्रों में प्रवृत्त होंगे, अर्थात् :

राजस्व ग्राम का नाम	राजस्व परगना	राजस्व तहसील	राजस्व जिला
1 नगरपालिका परिषद् नैनीताल, वार्ड संख्या 01 से 25 तक समस्त क्षेत्र		नैनीताल	नैनीताल

[संख्या एस-38013/61/2006-एस.एस.-1]

एस. दो. जेवियर, अवर सचिव

New Delhi, the 14th November, 2006

S. O. 4519.—In exercise of the powers conferred by sub-section (3) of Section 1 of the Employees' State Insurance Act, 1948 (34 of 1948) the Central Government hereby appoints the 1st December, 2006 as the date on which the provisions of Chapter IV (except Sections 44 and 45 which have already been brought into force) and Chapter-V and VI (except Sub-Section (1) of Section 76 and Sections 77, 78, 79 and 81 which have already been brought

into force) of the said Act shall come into force in the following areas in the State of Uttranchal namely :—

Sl. No.	Name of the Village	Revenue Pargana	Revenue Tehsil	District
1.	Municipal Board Nainital Ward No. 1 to 25.	Nainital	Nainital	Nainital

[No. S-38013/61/2006-S.S.I.]

S.D. XAVIER, Under Secy.

नई दिल्ली, 17 नवम्बर, 2006

का.आ. 4520.—कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा-1 की उप धारा-(3) द्वारा प्रदत्त शाक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतदद्वारा 01 दिसम्बर, 2006 को उस तारीख के रूप में नियत करती है, जिसको उक्त अधिनियम के अध्याय-4 (44 व 45 धारा के सिवाय जो पहले से प्रवृत्त हो चुकी है) अध्याय-5 और 6 (धारा-76 की उपधारा (1) और धारा 77, 78, 79 और 81 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है) के उपबन्ध आन्ध्र प्रदेश राज्य के निम्नलिखित क्षेत्रों में प्रवृत्त होंगे, अर्थात् :—

“आन्ध्र प्रदेश राज्य के जिला नालगोण्डा में आलेरमण्डल के आलेर, कोल्लूर, कोलनुपाका, मंथापुरी, दिलावरपुर, अमनबोलु तथा बाराजीपेट के तुरुंगूडेम राजस्व गांव, जनगांव मण्डल के

पैंचांति राजस्व गांव, राजापेट मण्डल के रघुनाथपुरम, राजस्व गांव यादगिरिगुट्टा मण्डल के मोटा कोंडूर राजस्व गांव”

[संख्या एस-38013/62/2006-एस.एस.-1]

एस. दो. जेवियर, अवर सचिव

New Delhi, the 17th November, 2006

S.O. 4520.—In exercise of the powers conferred by sub-section (3) of Section of the Employees' State Insurance Act, 1948 (34 of 1948) the Central Government hereby appoints the 1st December, 2006 as the date on which the provisions of Chapter IV (except Sections 44 and 45 which have already been brought into force) and Chapter V and VI (except sub-section (i) of Section 76 and Sections 77, 78, 79 and 81 which have already been brought into force) of the said Act shall come into force in the following areas in the State of Andhra Pradesh namely :—

“All the areas falling within the limits of Revenue Villages of Alair, Kollur, Kolanupaka, Manthapuri, Dilavarpur, Amanabolu and Toorpugudem of Sharajipet, Alair Mandal; Pembarthy Revenue Village in Jangaon Mandal; Raghunathapuram Revenue Village in Rajapet Mandal and Mota Kondur Revenue Village in Yadagirigutta Mandal of Nalgonda District in Andhra Pradesh State.”

[No. S-38013/62/2006-S.S.I.]

S.D. XAVIER, Under Secy.